



**SUBMITTAL TO THE BOARD OF DIRECTORS  
RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Regional Park & Open Space District

**SUBMITTAL DATE:**  
September 22, 2016

**SUBJECT:** Consent to Assignment and Assumption Agreement of Southerly Blythe Marina Lease/Sublease; District 4; [\$0]

**RECOMMENDED MOTION:** That the Board of Directors:

Consent to the Assignment and Assumption Agreement of the Southerly Blythe Marina Lease between Reynolds Resorts-Blythe, LLC and The Cove RV Resort on the Colorado River, LLC.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$0	\$0	\$0	\$0
<b>NET COUNTY COST</b>	\$0	\$0	\$0	\$0
<b>SOURCE OF FUNDS:</b>			<b>Budget Adjustment:</b>	
			<b>For Fiscal Year:</b>	

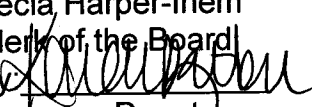
**C.E.O. RECOMMENDATION:**

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**MINUTES OF THE BOARD OF DIRECTORS**

On motion of Director Ashley, seconded by Director Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

**Ayes:** Jeffries, Tavaglione, Washington, Benoit and Ashley  
**Nays:** None  
**Absent:** None  
**Date:** October 4, 2016  
**xc:** Parks

Kecia Harper-Ihem  
 Clerk of the Board  
 By   
 Deputy

**13-2D**

**SUBMITTAL TO THE BOARD OF DIRECTORS RIVERSIDE COUNTY REGIONAL PARK AND OPEN-  
SPACE DISTRICT  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**BACKGROUND:**

**Summary**

The Southerly Blythe Marina RV Park property has been operated under a concession agreement since the early 1970's. The Riverside County Regional Park and Open-Space District ("District") entered into an Amended and Restated Southerly Blythe Marina Lease/Sublease with Reynolds Resorts-Blythe LLC. ("Reynolds") on October 28, 2014 for the operation of the RV Park located on the property. At this time, Reynolds is selling its business interest to The Cove RV Resort on the Colorado River, LLC ("Cove").

District staff reviewed the documentation provided by Cove and met with the principal owner, Mark Rowe, to evaluate the prospective new lessee and impacts of the proposed Assignment. District staff recommends the Board's approval of the Consent to the Assignment and Assumption Agreement between Reynolds and Cove.

**Impact on Residents and Businesses**

Cove plans to make improvements to the facility and operation of the RV park that will provide for an improved camping experience for citizens and bring more business to the local economy.

**Attachments:**

Assignment and Assumption Agreement

Consent to Assignment and Assumption

CONSENT TO ASSIGNMENT AND ASSUMPTION

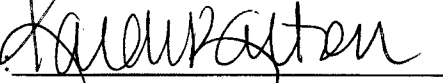
The Riverside County Regional Park and Open-Space District ("District"), as a party to that certain Amended and Restated Southerly Blythe Marina Lease and Sublease Agreement dated Oct 14, 2014 ("Lease"), hereby consents to the foregoing Assignment and Assumption made pursuant to that certain Assignment and Assumption Agreement dated September 14, 2016 by the Reynolds Resorts-Blythe, LLC, a California limited liability company, as Assignor, to The Cove RV Resort on the Colorado River LLC, a California limited liability company, as Assignee to that certain Lease for setting forth the each party's rights and obligations for the letting of real property, operations and maintenance of campground facilities identified therein as the Southerly Blythe Marina ("Facilities") located in the City of Blythe, County of Riverside, California. This District's Consent, including with respect to any future assignments thereunder, is not, and will not be deemed or construed to modify, waive, or affect any of the provisions, covenants, or conditions of the Lease, waive any breach of the Lease or any of the rights of District, or enlarge or increase District's obligations under the Agreement.

DATE: OCT 04 2016

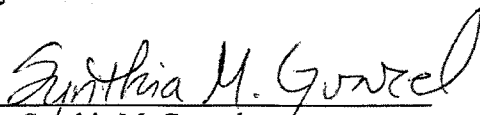
RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT,  
a special district

By:   
Kevin Jeffries  
Chairman, Board of Directors

ATTEST:  
Kecia Harper-Ihem  
Clerk of the Board

By:   
Deputy

APPROVED AS TO FORM:  
Gregory P. Priamos  
County Counsel

By:   
Synthia M. Gunzel  
Deputy County Counsel

OCT 04 2016 13-2D

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") entered into this 14th day of September, 2016 ("Effective Date") by and between the Reynolds Resorts-Blythe, LLC, (Assignor"), and The Cove RV Resort on the Colorado River LLC, ("Assignee").

**RECITALS**

WHEREAS, General Lease NO. PRC 9128.1 "Southerly Blythe Marina/Sublease; and

WHEREAS, Reynolds Resorts-Blythe, LLC dba: Riviera RV Resort & Marina at 500 Riviera Drive in the City of Blythe, County of Riverside, California; and

WHEREAS, Assignor desires to assign to the Assignee and the Assignee desires to assume from the Assignor the benefits and obligations of the Lease/Sublease Agreement whereby the Assignee, along with assuming the Agreement, agrees to accept the responsibility for operation and maintenance of the Facilities; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and the Assignee hereby agree as follows:

1. Assignment and Assumption. Assignor hereby unconditionally and irrevocably assigns, grants, and transfers all rights, responsibilities and obligations in and to the Lease/Sublease Agreement to Assignee. The Assignee hereby accepts and assumes all of Assignor's rights, responsibilities and obligations under the Lease/Sublease Agreement attached as Exhibit "A" and shall be bound by all the terms and conditions thereof.
2. Effective Date. The Effective Date of this Agreement shall be the date upon which Assignee acquires the business interest from Assignor. In the event that the acquisition by Assignee from Assignor does not occur within 90 days of the execution of this Assignment and Assumption Agreement and consent is not obtained by the Lessor and Sublessor in the Lease/Sublease Agreement, then this Assignment and Assumption Agreement shall be null and void.
3. Successors-In-Interests and Assigns. The Agreement shall be binding upon and inure to the benefit Assignor and Assignee, and to their respective successors-in-interests and assigns.
4. Authority of Parties. Each person signing this Agreement represents and warrants that he or she has the proper authority to bind the party on whose behalf he or she signs this Agreement.
5. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall together constitute one and the same instrument.
6. Acknowledgement. There is a second trust deed note in the amount of \$460,000.00 carried by the assignor to the assignee.

[Signature Provisions on Following Pages]

7. Complete Agreement. This Agreement and all exhibits referred to in this Agreement is intended by the parties to be the final expression of their agreement with respect to the subject matter hereof, and is intended as the complete and exclusive statement of the terms of the assignment between the parties. This Agreement supersedes any prior understandings between the parties, whether oral or written.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date as set forth above.

ASSIGNOR:  
Reynolds Resorts-Blythe, LLC

ASSIGNEE:  
The Cove RV Resort on the Colorado River LLC

By: Christine Johnson  
Name: Christine Johnson  
Title: Manager/Member

By: [Signature]  
Name: Mark Rowe  
Title: Manager/Member

DATED: 9/14/2016

DATED: 9/14/2016

By: [Signature]  
Name: Robert R. Johnson  
Title: Member

By: \_\_\_\_\_  
Name:  
Title:

DATED: 9/14/2016

DATED: \_\_\_\_\_

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

921



**FORM APPROVED COUNTY COUNSEL**  
 DATE: 10/15/14  
 BY: JAMES E. BROWN  
 Departmental Concurrence

**FROM:** Regional Park and Open-Space District

**SUBMITTAL DATE:**  
October 28, 2014

**SUBJECT:** Resolution No. 2014-7 Termination of General Lease No. PRC 3448.9 with the California State Lands Commission ("SLC"); Approval of New General Lease No. PRC 9128.1 with SLC for property adjacent to District-owned land with APNs 833-290-006 and 869-230-012; Approval of Amended and Restated Southerly Blythe Marina Lease/Sublease; CEQA Findings of Exemption; District 4; [\$284,029]

**RECOMMENDED MOTION:** That the Board of Directors:

1. Find that the proposed project is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15301 – Existing Facilities and 15061(b)(3);
2. Adopt Resolution No. 2014-7 Termination of General Lease (Lease No. PRC 3448.9), and Authorization of General Lease (Lease No. PRC 9128.1) with the State of California, by and through the California State Lands Commission;

(continued on page 2)

**BACKGROUND:**

Summary

(continued on page 2)

*Keith Herron*

Keith Herron  
Resources Bureau Chief for  
Scott Bangle, General Manager

2015-005D BH/SG/MG/EC

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 43,688	\$ 34,899	\$ 284,029	\$ 6,288	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

**SOURCE OF FUNDS:** 25400 District Operating Fund

Budget Adjustment: No  
For Fiscal Year:

**C.E.O. RECOMMENDATION:**

APPROVE

BY: *Alex Gann*

County Executive Office Signature Alex Gann

**MINUTES OF THE BOARD OF DIRECTORS**

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

Ayes: Jeffries, Tavaglione, Stone and Ashley  
 Nays: None  
 Absent: Benoit  
 Date: October 28, 2014  
 xc: Parks, Recorder

Kecia Harper-Ihem  
Clerk of the Board  
By: *[Signature]*  
Deputy **DISTRICT**

Prev. Agn. Ref.:

District: 4

Agenda Number:

**13-1**

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

**SUBMITTAL TO THE BOARD OF DIRECTORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11: Resolution No. 2014-7 Termination of General Lease No. PRC 3448.9 with the California State Lands Commission ("SLC"); Approval of New General Lease No. PRC 9128.1 with SLC for property adjacent to District-owned land with APNs 833-290-006 and 869-230-012; Approval of Amended and Restated Southerly Blythe Marina Lease/Sublease; CEQA Findings of Exemption; District 4; [\$284,029]**

**DATE: October 28, 2014**

**PAGE: 2 of 4**

**RECOMMENDED MOTION:** (continued from page 1)

3. Approve the attached New General Lease (Lease No. PRC 9128.1) between the Riverside County Regional Park and Open-Space District ("District") and the State of California, by and through the California State Lands Commission, concerning certain real property legally described on Exhibit "A", located adjacent to District-owned land in the City of Blythe, Riverside County, California, near the Colorado River;
4. Approve the Amended and Restated Southerly Blythe Marina Lease-Sublease between the District and Reynolds Resort-Blythe, LLC;
5. Authorize the Chairman of the Board to execute Lease No. PRC 9128.1, the Endorsement of a Sublease to Lease No. PRC 9128.1, Memorandum of Lease No. PRC 9128.1 and the Amended and Restate Southerly Blythe Marina Lease/Sublease on behalf of the District;
6. Direct the Clerk of the Board to file the Notice of Exemption with the County Clerk upon approval of the project; and
7. Direct the Clerk of the Board to return two (2) executed copies of Lease No. PRC 9128.1, two (2) executed copies of the Memorandum of Lease No. PRC 9128.1, one (1) executed copy of the Endorsement of a Sublease to Lease No. PRC 9128.1, and three (3) executed copies of the Amended and Restated Southerly Blythe Marina Lease-Sublease to the Riverside County Regional Park and Open-Space District for further execution and distribution.

**BACKGROUND:**

**Summary (continued)**

The California State Lands Commission ("SLC") has authority over public trust lands of the State along the Colorado River. The SLC's Land Management Division in Sacramento administers the leasing of these lands. On March 1, 1966, the SLC issued a forty-nine (49) year Lease to the County of Riverside ("County"), also referenced as Lease No. PRC 3448.9, for certain real property located near the Colorado River in the City of Blythe, Riverside County, California, legally described and referenced as Parcels 1, 2 and 3 ("Parcels") therein Lease No. PRC 3448.9. The land subject to Lease PRC No. 3448.9 was adjacent to land owned in fee by the County at the time SLC issued Lease No. PRC 3448.9. One of the Parcels, also referenced as the Southerly Blythe Marina Campground, is located south of Interstate 10 and the other two Parcels, collectively referenced as Quechan Park and the Blythe Mobilehome Estates property, are located north of Interstate 10.

In 1998, the County quitclaimed its real property interest in its property to the Riverside County Regional Park and Open-Space District ("District"). The District took over the management and control of the property thereafter, including Lease No. PRC 3448.9. In 2012, the District completed a lot line adjustment for the parcels north of Interstate 10 and recorded new legal descriptions for the parcels with Assessor's Parcel Number ("APN") 833-310-017 and APN 833-310-016 north of Interstate 10. In December of 2012, the District conveyed the parcel located north of Interstate 10 and adjacent to the Colorado River, with APN 833-310-017, also known as Quechan Park, to the City of Blythe. The land west of and contiguous to Quechan Park remains in the ownership of the District with certain improvements and mobilehomes, known as Blythe Mobilehome Estates, with APN 833-310-016.

**BACKGROUND:**  
**Summary (continued)**

The District has submitted an application to the SLC to request:

1. Termination of Lease No. PRC 3448.9 concerning all Parcels of land described above (Parcels 1, 2 and 3);
2. Authorization of a new lease for the real property (New General Lease No. PRC 9128.1) located south of the I-10 between the District and the SLC, as legally described on the attached Exhibit "A", adjacent to land owned by the District with APNs 833-290-006 and 869-230-012; and
3. SLC's Endorsement of a sublease to Lease No. PRC 9128.1 between the District and Reynolds Resorts-Blythe LLC over that portion of land within the Southerly Blythe Marina Campground that the SLC has authority.

On June 19, 2014, the Board for the SLC has authorized the termination of Lease No. PRC 3448.9 effective June 30, 2014; approved the Lease No. PRC 9128.1 with the District effective July 1, 2014 for a 30 year term lease and annual rent of \$6,288 with annual percentage increases tied to the annual percentage changes of the Consumer Price Index; and endorsed a Sublease of Lease No. PRC 9128.1 for terms to be consistent with term period of Lease No. PRC 9128.1.

Upon the effective date of the termination, the SLC land formerly adjacent to the Blythe Mobilehome Estates will no longer be subject to any SLC Lease because the lot line adjustment removed any land within the SLC's authority. The City of Blythe has sought a new lease with the SLC and the SLC has authorized a new lease for the SLC property adjacent to the City's Quechan Park on the same date as the termination of General Lease No. PRC 3448.9. The SLC land adjacent to the District's Southerly Blythe Marina Campground property will be subject to the new Lease No. 9128.1.

Pursuant to the California Environmental Quality Act ("CEQA"), the proposed project was reviewed and determined to be categorically exempt from CEQA under CEQA Guidelines Section 15301 – Existing Facilities. The proposed project is the termination of an existing lease and letting of property involving existing facilities where negligible or no new changes or expansion of the use will occur. And the amendment and restatement of an existing lease to update certain terms and conditions associated with the letting of these existing facilities and the new Lease with the SLC. It can be seen with certainty that the termination of the lease will not result in a direct or reasonably foreseeable indirect impact or physical change in the environment because it is merely a termination of a contract and is not prompting any development or changes in the land. The new lease of the property is for the use and maintenance of an existing recreational vehicle campground with existing improvements for the visitors of the campground.

The District desires termination of Lease No. PRC 3448.9 and approval of the new Lease No. PRC 9128.1 with the SLC to continue to the use, operations and maintenance of the Southerly Blythe Marina Campground property. As part of this transaction, the District desires to enter into the Amended and Restated Southerly Blythe Marina Lease/Sublease with Reynolds Resorts-Blythe, LLC to update certain terms and conditions of the lease and to include applicable limitations associated with the New Lease No. PRC 9128.1 with the SLC.



**SUBMITTAL TO THE BOARD OF DIRECTORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**  
**FORM 11: Resolution No. 2014-7 Termination of General Lease No. PRC 3448.9 with the California State Lands Commission ("SLC"); Approval of New General Lease No. PRC 9128.1 with SLC for property adjacent to District-owned land with APNs 833-290-006 and 869-230-012; Approval of Amended and Restated Southerly Blythe Marina Lease/Sublease; CEQA Findings of Exemption; District 4; [\$284,029]**  
**DATE: October 28, 2014**  
**PAGE: 4 of 4**

**SUPPLEMENTAL:**  
**Additional Fiscal Information**

The District has a long-term lease for the maintenance and operations of the Blythe Southerly Marina campground area with concessionaire Reynolds Resorts – Blythe, LLC. The original lease is dated in 1970, and includes several amendments, changes of ownership, and a side letter, which the District and Reynolds Resorts – Blythe, LLC desire to consolidate into an Amended and Restated Lease.

As part of the Amended and Restated Southerly Blythe Marina Lease/Sublease, the lessee is required to pay to the District seven percent (7%) of their gross sales as a concessionaire fee on a monthly basis. According to a side letter to the original lease, the District has been paying for 80.85% of the lessee's possessory interest taxes on the land annually. The Amended and Restated Lease includes a schedule to phase out this cost sharing over the next four years, with the District's percentage share of possessory interest taxes decreasing such that the lessee will pay the full amount by FY18/19. The estimated total cost for the District's share of possessory interest taxes for the phase-out period of FY14/15 through FY17/18 is \$95,389. The concession revenue received by the District under this lease more than adequately covers this cost.

The land upon which Reynolds Resorts – Blythe, LLC operates the Riviera Resort RV Park, at Blythe Southerly Marina campground, includes that portion of land in which SLC has an interest. Because there are income-producing activities on that land, SLC has required the District to share a portion of that earned revenue in the form of an annual rent payment in the amount of \$6,288. The total cost for this rent for the 30 year lease is \$188,640.

**Attachments:**

Lease No. PRC 9128.1  
Exhibits "A" and "B"  
Memorandum of Lease – Lease No. PRC 9128.1  
Endorsement of a Sublease of State Lands Commission Lease No. PRC 9128.1  
Amended and Restated Southerly Blythe Lease/Sublease  
Notice of Exemption

1 BOARD OF DIRECTORS

RIVERSIDE COUNTY REGIONAL  
2 PARK & OPEN-SPACE DISTRICT

3 RESOLUTION NO. 2014-7

4 A RESOLUTION OF THE BOARD OF DIRECTORS OF THE RIVERSIDE COUNTY REGIONAL  
5 PARK & OPEN-SPACE DISTRICT FOR THE TERMINATION OF GENERAL LEASE (LEASE NO.  
6 PRC 3448.9) AND AUTHORIZATION OF GENERAL LEASE (LEASE NO. PRC 9128.1) WITH THE  
7 STATE OF CALIFORNIA, BY AND THROUGH THE CALIFORNIA STATE LANDS COMMISSION  
8 FOR CERTAIN REAL PROPERTY LEGALLY LOCATED WITHIN THE HISTORIC BED OF THE  
9 COLORADO RIVER AND ADJACENT TO DISTRICT OWNED LAND IN THE CITY OF BLYTHE,  
10 COUNTY OF RIVERSIDE, CALIFORNIA

11 WHEREAS, the Riverside County Regional Park and Open-Space District ("District") owns  
12 certain real property consisting of approximately 21.55 acres of land situated along the Colorado River in  
13 the City of Blythe, County of Riverside, State of California, with Assessor's Parcel Numbers 833-290-006  
14 and 869-230-012, that is currently used as a recreational vehicle park and campground ("District  
15 Property"); and

16 WHEREAS, the State of California, by and through the California State Lands Commission  
17 ("SLC") has authority over public trust lands of the State along the Colorado River pursuant to Division 6  
18 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations which grants  
19 the SLC's Land Management Division in Sacramento the authority to administer the leasing of these  
20 lands; and

21 WHEREAS, the SLC has authority for certain real property located near the Colorado River in the  
22 City of Blythe, Riverside County, California, legally described and referenced as Parcels 1, 2 and 3  
23 ("Parcels") therein that certain Lease No. PRC 3448.9 dated March 1, 1966 between the SLC and the  
24 County of Riverside ("County"), where the SLC issued a forty-nine (49) year lease over said land situated  
25 adjacent to County owned fee land, the predecessor-in-interest to the District Property; and

26 WHEREAS, the District and SLC desire to terminate Lease No. PRC 3448.9 to release the  
27 aforementioned Parcels and enter into that certain Lease No. PRC 9128.1 between the SLC and the  
28 District for certain lands within the historic bed of the Colorado River in the City of Blythe, Riverside  
County more particularly described in Exhibit "A" and shown in Exhibit "B", ("Leased Premises"),  
attached hereto and by this reference incorporated herein, situated adjacent to the District Property

FORM APPROVED COUNTY COUNSEL  
BY: *S.M. GUNZEL* 10-15-14  
SYNTHIA M. GUNZEL

DATE

1 including an endorsement by SLC that the District may sublease the Leased Premises to the Reynolds  
2 Resorts – Blythe, LLC; now therefore,

3 BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Directors of the Riverside  
4 County Regional Park and Open-Space District, in regular session assembled on October 28, 2014, at or  
5 after 10:30 a.m., in the meeting room of the Board of Directors located on the 1st floor of the County  
6 Administrative Center, 4080 Lemon Street, Riverside, California, hereby approves the termination of  
7 Lease No. PRC 3448.9 of certain real property located near the Colorado River in the City of Blythe,  
8 Riverside County, California, legally described and referenced as Parcels 1, 2 and 3 therein Lease No.  
9 PRC 3448.9 effective upon adoption of this resolution by the Board of Directors.

10 BE IT FURTHER RESOLVED, DETERMINED AND ORDERED that the Board of Directors of  
11 the Riverside County Regional Park and Open-Space District authorizes the lease of real property  
12 interests in the City of Blythe, County of Riverside, State of California, within the historic bed of the  
13 Colorado River, more particularly described in **Exhibit “A”** and as shown on **Exhibit “B”**, from the SLC  
14 and approves that certain General Lease No. PRC 9128.1 between the Riverside County Regional Park  
15 and Open-Space District and the SLC for the Leased Premises, pursuant to the terms and conditions  
16 contained in that certain Lease No. 9128.1, including the following terms:

17 A term period of 30 years effective as of July 1, 2014 for a starting annual rent of Six Thousand  
18 Two Hundred Eighty Eight Dollars (\$6,288) payable to the SLC with annual percentage increases tied to  
19 the annual percentage changes of the Consumer Price Index and an endorsement by SLC that the District  
20 may sublease the Leased Premises to the Reynolds Resorts – Blythe, LLC.

21 BE IT FURTHER RESOLVED, DETERMINED AND ORDERED that the Chairman of the  
22 Board of Directors of the Riverside County Regional Park and Open-Space District is authorized to  
23 execute that certain Lease No. PRC 9128.1, the Endorsement of a Sublease to Lease No. PRC 9128.1 to  
24 Reynolds Resorts – Blythe, LLC, and the Memorandum of Lease No. PRC 9128.1 on behalf of the  
25 District.

26 BE IT FURTHER RESOLVED, DETERMINED AND ORDERED that the General Manager, or  
27 his designee, is authorized to execute any other documents to complete this transaction.

1 **BOARD OF SUPERVISORS**

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

2  
3 **RESOLUTION NO. 2014-7**

4 **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE RIVERSIDE COUNTY REGIONAL**  
5 **PARK & OPEN-SPACE DISTRICT FOR THE TERMINATION OF GENERAL LEASE (LEASE NO.**  
6 **PRC 3448.9) AND AUTHORIZATION OF GENERAL LEASE (LEASE NO. PRC 9128.1) WITH THE**  
7 **STATE OF CALIFORNIA, BY AND THROUGH THE CALIFORNIA STATE LANDS**  
8 **COMMISSION FOR CERTAIN REAL PROPERTY LEGALLY LOCATED WITHIN THE**  
9 **HISTORIC BED OF THE COLORADO RIVER AND ADJACENT TO DISTRICT OWNED LAND IN**  
10 **THE CITY OF BLYTHE, COUNTY OF RIVERSIDE, CALIFORNIA**

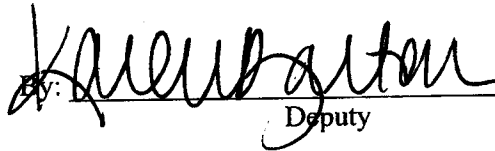
11  
12 **ADOPTED by Riverside County Board of Supervisors on October 28, 2014**

13  
14 **ROLL CALL:**

15 **Ayes: Jeffries, Tavaglione, Stone and Ashley**  
16 **Nays: None**  
17 **Absent: Benoit**

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The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KECIA HARPER-IHEM, Clerk of said Board

by:   
Deputy

10.28.14 13-1D

## EXHIBIT A

PRC 9128.1

### LAND DESCRIPTION

A parcel of State owned sovereign land situate in the historic channel of the Colorado River, County of Riverside, State of California and more particularly described as follows:

BEGINNING at a 1¼ inch iron pipe tagged "COUNTY SURVEYOR" having CCS 83 Zone 6 coordinates of Northing (y)=2167616.07 feet and Easting (x)=7083550.86 feet which bears South 74° 49' 58" West 1584.46 feet from NGS monument "EHREN" (PID DW1289) having CCS 83 Zone 6 published coordinates of Northing (y)=2168030.63 feet and Easting (x)=7085080.13 feet, said iron pipe also being the common corner of Sections 35 and 36 T.6 S., R. 23 E. and Sections 1 and 2 T.7 S., R. 23 E. S.B.M. as shown on that Record of Survey, filed on June 29, 1961 in Book 34 at pages 36 and 37 Riverside County Recorder's Office; thence along the west line of the southwest quarter of said Section 36 North 1° 53' 08" West 200.32 feet to a point on a right bank of the historic channel of said river; thence leaving said section line and along said right bank of said historic channel North 64° 14' 00" East 516.70 feet to a point on the southerly line of the right-of-way of California State Highway Route 64 (U.S. No. 60), as per California State Highway Right-of-Way Map XI-Riv.-64-F, Colorado River Bridge Plans, also being a point on a non-tangent curve concave northeasterly and having a radius of 10,200.00 feet, a radial line of said curve at said point bears North 16° 39' 54" East; thence easterly along said southerly line, through a central angle of 01° 28' 22", for an arc distance of 262.20 feet; thence continue along said southerly line South 74° 48' 28" East 234.35 feet to a point on the historic center line of said historic channel; thence leaving said southerly line and along said center line South 60° 15' 36" West 106.32 feet; thence South 62° 09' 54" West 1141.52 feet; thence South 62° 54' 10" West 139.48 feet to a point on the northwesterly line of that parcel described in the Quitclaim Deed recorded on January 6, 1975 as Instrument No. 1431 Official Records of said Riverside County; thence leaving said center line and along said northwesterly line North 32° 42' 52" East 423.59 feet to the north line of said Section 2; thence along said north section line North 88° 37' 52" East 60.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the low water mark of the right bank of historic channel of said Colorado River.

BASIS OF BEARINGS for this description is CCS83 Zone 6 (Epoch 1992). All distances are grid distances.

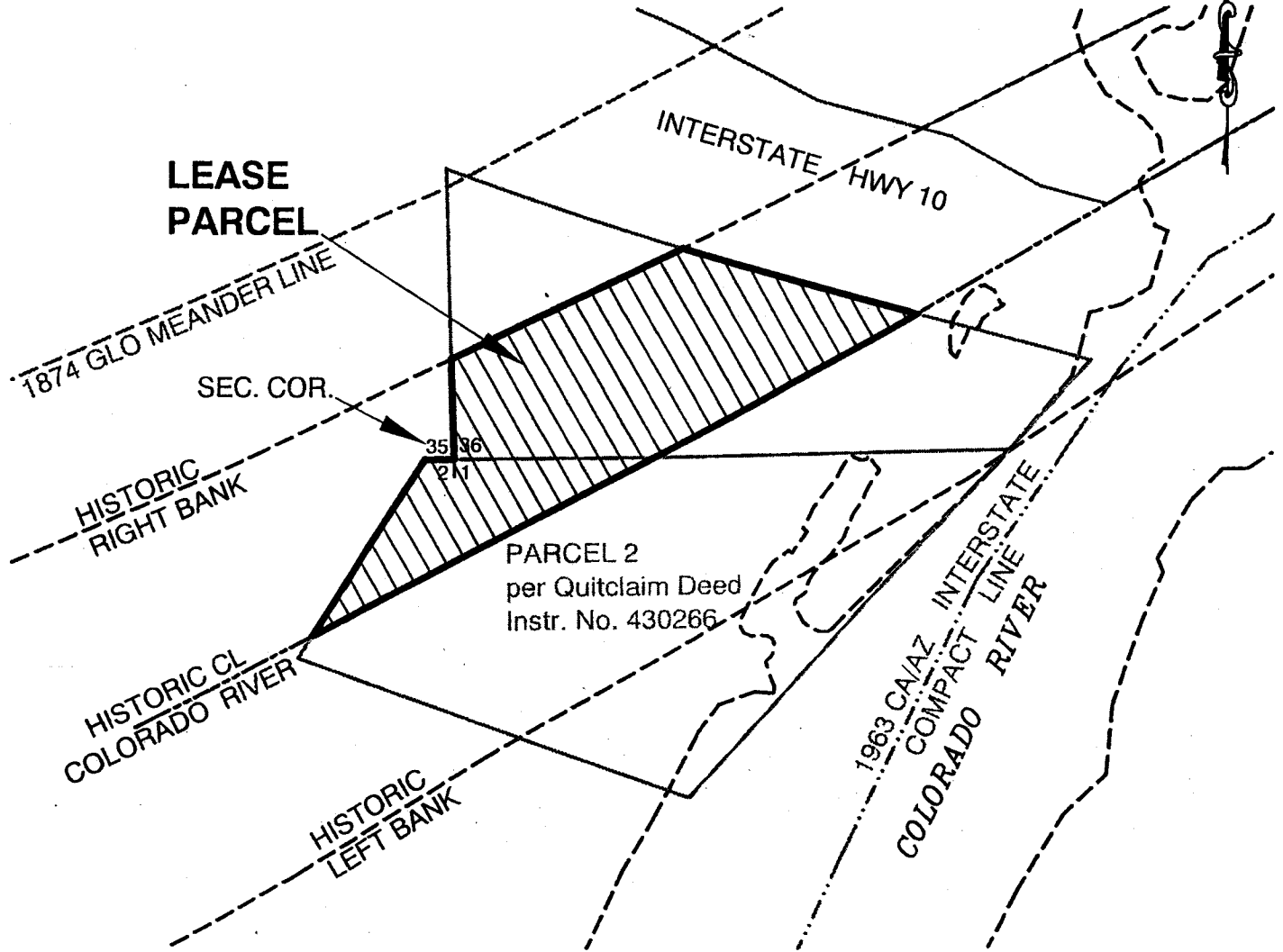
**END OF DESCRIPTION**

Prepared 05/15/14 by the California State Lands Commission Boundary Unit



NO SCALE

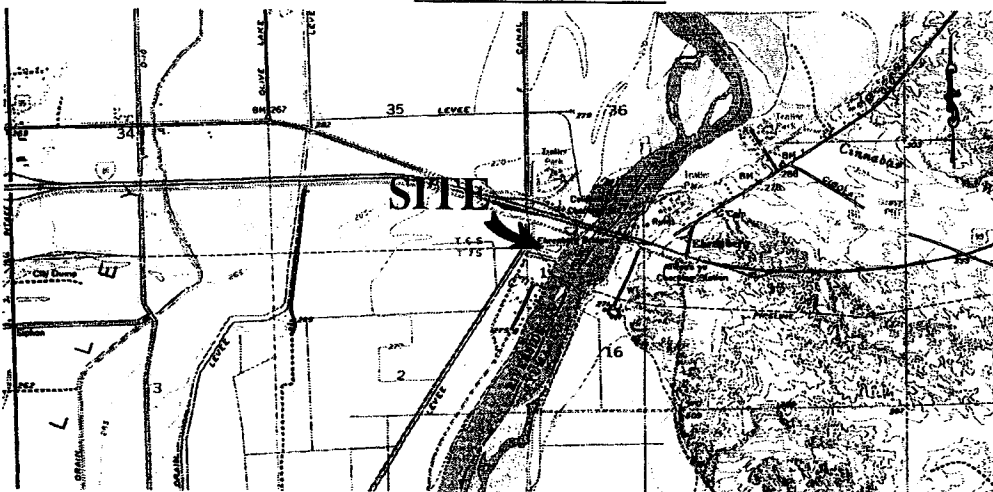
### SITE



PORTIONS OF SEC. 36, T6S, R23E, SEC., 1 & 2 T7S, R23E, SBM, CITY OF BLYTHE, COLORADO RIVER

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

### Exhibit B

PRC 9128.1

RIVERSIDE COUNTY REGIONAL  
PARK & OPEN SPACE DISTRICT

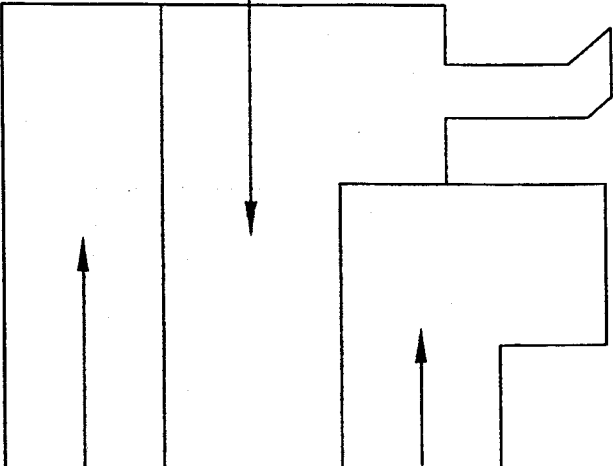
APNs 833-290-006 & 869-230-012

GENERAL LEASE-  
COMMERCIAL USE  
RIVERSIDE COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Site 1 : Parcel 1  
Area : 350.21



Site 1 : Parcel 2  
Area : 198.00

Site 1 : Parcel 3  
Area : 234.08





SCOTT BANGLE Parks Director/General Manager  
 KYLA BROWN Chief - Parks & Recreation  
 KEITH HERRON Chief - Resources & Planning  
 BRANDE HUNE Chief - Business Operations

Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

10/29/14 KB  
 Date Initial

Riverside County  
 Regional Park and Open-Space District

**NOTICE OF EXEMPTION**

TO:  Office of Planning and Research (OPR)  
 P.O. Box 3044  
 Sacramento, CA 95812-3044  
 County of Riverside County Clerk

FROM: Riverside County Regional Park and  
 Open Space District  
 4600 Crestmore Road  
 Jurupa Valley, CA 92509

Project Title/Case No.: To terminate General Lease (Lease No. PRC 3448.9) and authorize new General Lease (Lease No. PRC9128.1) with State Land Commission (SLC) on properties known as Southerly Blythe Marina Campground, Quechan Park, and Blythe Mobilehome Estates.

Project Location: Riverside County. Southerly Blythe Marina Campground is located south of Interstate 10 and the other two Parcels, collectively referenced as Quechan Park and the Blythe Mobilehome Estates property are located north of Interstate 10 (APNs 833-290-006 and 869-230-012).

Project Description: The proposed project is to Termination of Lease No. PRC 3448.9 concerning all Parcels of land described above (Parcels 1, 2 and 3); authorization of a new lease for the real property (New General Lease No. PRC 9128.1); and SLC's Endorsement of a sublease to Lease No. PRC 9128.1 between the District and Reynolds Resorts-Blythe LLC over that portion of land within the Southerly Blythe Marina Campground that the SLC has authority. As part of this transaction, the District desires to enter into the Amended and Restated Southerly Blythe Marina Lease/Sublease with Reynolds Resorts-Blythe, LLC to update certain terms and conditions of the lease and to include applicable limitations associated with the New Lease No. PRC 9128.1 with the SLC. The Assessor's Parcel Number are 833-290-006 and 869-230-012 located north and south of I-10 in Blythe, California.

Name of Public Agency Approving Project: Riverside County Board of Supervisors

Project Applicant & Address: Riverside County Regional Park and Open-Space District, 4600 Crestmore Road, Jurupa Valley, CA 92509

Exempt Status: (Check one)

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269 (b)(c))
- Categorical Exemption (Section 15301 Class 1 leasing of existing facilities and 15061 (b)3 activity is seen with certainty that there is no possibility of significant effect)
- Statutory Exemption (\_\_\_\_\_)
- Other: \_\_\_\_\_

Reasons why project is exempt: The project is exempt from the provisions of CEQA specifically by CEQA Guidelines Section 15301 Class 1 consists of leasing existing facility with no expansion and Section 15061 (b)3 where the activity can be seen with certainty that there is no possibility of significant effect on the environment. The proposal will not add additional square footage and the replacement or reconstruction of existing facilities involving negligible or no expansion of capacity.

Scott Bangle, General Manager  
 County Contact Person

951-955-4398

Phone Number

Keith Herron for Scott Bangle  
 Signature

General Manager

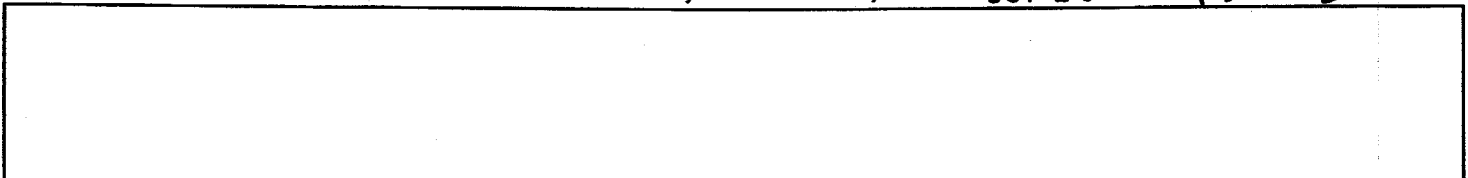
Title

10-14-14  
 Date

Date Received for Filing and Posting at OPR: \_\_\_\_\_

For County Clerk's Use Only

OCT 28 2014 13-1D



RECORDED AT THE REQUEST OF  
AND WHEN RECORDED MAIL TO:  
STATE OF CALIFORNIA  
State Lands Commission  
Attn: Title Unit  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

**STATE OF CALIFORNIA**  
**OFFICIAL BUSINESS**  
Document entitled to free recodation  
pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 833-290-006 and 869-230-012  
County: Riverside

**ENDORSEMENT OF A SUBLEASE OF STATE LANDS COMMISSION LEASE  
No. PRC 9128.1 FROM RIVERSIDE COUNTY REGIONAL PARK AND OPEN  
SPACE DISTRICT TO REYNOLDS RESORTS – BLYTHE, LLC**

This Endorsement is made by the State of California, acting through the State Lands Commission, hereinafter called Lessor, to Riverside County Regional Park and Open Space District (Lessee) and Reynolds Resorts – Blythe, LLC (Sublessee).

**WITNESSETH:**

**WHEREAS**, Lessor is the owner of certain real property located in the County of Riverside, State of California, which real property is hereinafter referred to as the “Lease Premises”; and

**WHEREAS**, Pursuant to Commission Minute Item No. C-65 dated, June 19, 2014, the Lessor has leased the Lease Premises to Riverside County Regional Park and Open Space District; and

**WHEREAS**, Lessee and Sublessee have entered into an agreement (Sublease Agreement) to lease the Lease Premises, subject to Lease No. PRC 9128.1, and real property adjacent to the Lease Premises owned by Lessee; and

**NOW THEREFORE**, Lessor consents to the Sublease Agreement between Lessee and Sublessee, without waiver of any of its rights under the Lease as to the Lessee thereunder or under the Sublease Agreement as to the Sublessee, conditioned upon the following:

1. The Sublease Agreement is subject and subordinate to the terms and conditions of the Lease and Lessor’s consent to the Sublease shall not be construed to give greater rights under the Leases to the Sublessee than the Lessee holds under the Lease, nor to any future subleases.
2. Lessee shall remain liable to Lessor for all rent due under the Lease.

3. Lessor shall have the right, through its representatives and at all reasonable times, to inspect or audit all books and records kept or prepared by Sublessee showing all its business transactions in connection with the Lease Premises.
4. At no time may the term of the sublease extend beyond the term of Lease No. PRC 9128.1.
5. The Sublease Agreement shall be construed in accordance with, and governed by, the laws of the State of California.

This consent may be executed in counterparts each of which together shall constitute one and the same consent.

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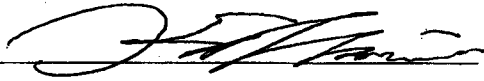
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**LESSEE:**

**RIVERSIDE COUNTY REGIONAL  
PARK AND OPEN SPACE DISTRICT**

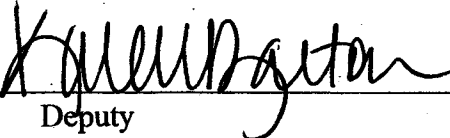
By: 

Name: Kevin Jeffries

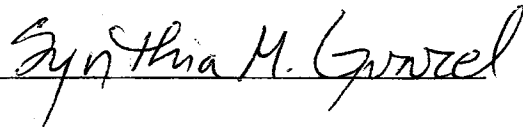
Title: Chairman, Board of Directors

Date: OCT 28 2014

ATTEST:  
CLERK OF THE BOARD  
Kecia Harper-Ihem

By:   
Deputy

APPROVED AS TO FORM:  
County Counsel  
Pamela J. Walls

By: 

Name: Synthia M. Gunzel

Title: Deputy County Counsel

**LESSOR:**

**STATE OF CALIFORNIA  
STATE LANDS COMMISSION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

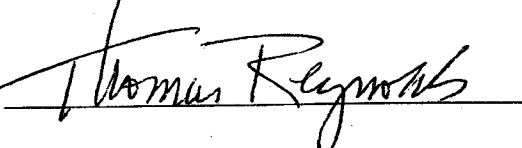
Date: \_\_\_\_\_

Execution of this document was authorized  
by the California State Lands Commission on

\_\_\_\_\_  
(Month Day Year)

**SUBLESSEE:**

**REYNOLDS RESORTS - BLYTHE, LLC**

By: 

Name: Thomas Reynolds

Title: Managing Member

Date: 7-17-14

**ATTACH NOTARY ACKNOWLEDGEMENTS**

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

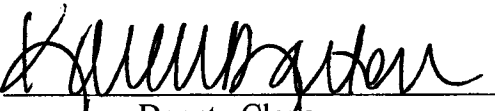
} §

On October 28, 2014, before me, Karen Barton, Board Assistant, personally appeared Kevin Jeffries, Chairman of the Board of Directors of the Regional Park and Open-Space District, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument; and that a copy of this paper, document or instrument has been delivered to the chairperson.

I certify under the penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Kecia Harper-Ihem  
Clerk of the Board of Supervisors

By:   
Deputy Clerk

(SEAL)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of ORANGE

On July 17, 2014 before me, ABBA KO-KIM, NOTARY PUBLIC

personally appeared THOMAS REYNOLDS

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal. Signature: [Handwritten Signature]

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

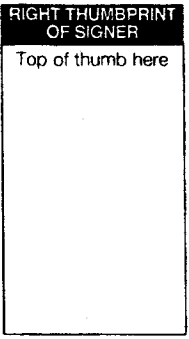
Title or Type of Document: INDORSEMENT OF A SUBLEASE

Document Date: 7-17-2014 Number of Pages:

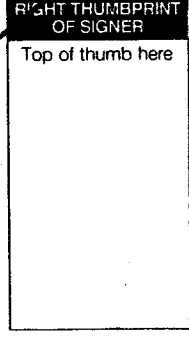
Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Form for Capacity(ies) Claimed by Signer(s) with checkboxes for Corporate Officer, Individual, Partner, Attorney in Fact, Trustee, Guardian or Conservator, and Other.



Form for Capacity(ies) Claimed by Signer(s) with checkboxes for Corporate Officer, Individual, Partner, Attorney in Fact, Trustee, Guardian or Conservator, and Other.



RECORDED AT THE REQUEST OF  
AND WHEN RECORDED MAIL TO:  
STATE OF CALIFORNIA  
California State Lands Commission  
Attn: Title Unit  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

**STATE OF CALIFORNIA**  
**OFFICIAL BUSINESS**  
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pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 833-290-06 and 869-230-12  
County: Riverside

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

**LEASE NO. PRC 9128.1**

This Lease consists of this summary and the following attached and incorporated parts:

- |           |   |
|-----------|---|
| Section 1 | Basic Provisions  |
| Section 2 | Special Provisions Amending or Supplementing Section 1 or 3 |
| Section 3 | General Provisions  |
| Exhibit A | Land Description  |
| Exhibit B | Site and Location Map                                       |

**SECTION 1**

**BASIC PROVISIONS**

**THE STATE OF CALIFORNIA**, hereinafter referred to as Lessor acting by and through the **CALIFORNIA STATE LANDS COMMISSION** (100 Howe Avenue, Suite 100-South, Sacramento, California 95825-8202), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations, and for consideration specified in this Lease, does hereby lease, demise, and let to **RIVERSIDE COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT**, hereinafter referred to as Lessee, those certain lands described in Exhibit A hereinafter referred to as Lease Premises, subject to the reservations, terms, covenants, and conditions of this Lease.

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**MAILING ADDRESS:** 4600 Crestmore Road  
Jurupa Valley, CA 92509

**LEASE TYPE:** General Lease – Commercial Use

**LAND TYPE:** Sovereign

**LOCATION:** Historic bed of the Colorado River, city of Blythe, Riverside County, as described in Exhibit A attached and by this reference made a part hereof.

**LAND USE OR PURPOSE:** Use and maintenance of a recreational vehicle campground.

**TERM:**

LEASE: 30 years; beginning July 1, 2014; ending June 30, 2044, unless sooner terminated as provided under this Lease.

SUBLESSEE: For the remaining term ending June 30, 2014, and three consecutive 5 year extensions; the first beginning July 1, 2014, ending June 30, 2019, the second beginning July 1, 2019, ending June 30, 2024, and the last beginning July 1, 2024, ending June 30, 2029.

**CONSIDERATION:** Annual Rent in the amount of \$6,288 for the period from July 1, 2014, to June 30, 2015; with the State adjusting the Annual Rent for each subsequent year by the application of the annual percentage change of the Consumer Price Index (CPI), provided that the adjusted Annual Rent will never be lower than \$6,288, and further providing that the State shall have the right to adjust the Annual Rent upon any amendment of the sublease between Lessee and Sublessee, with the first rent review occurring no later than two years from July 1, 2014. CPI adjustments will continue annually until each fifth anniversary of the Lease, when a new Annual Rent may be established by Lessor as specified in Paragraph 3(b) of Section 3, General Provisions.

**AUTHORIZED IMPROVEMENTS:**

X **EXISTING:** Recreational vehicle campground.

N/A **TO BE CONSTRUCTED:**

**CONSTRUCTION MUST BEGIN BY:** N/A

**AND BE COMPLETED BY:** N/A

**LIABILITY INSURANCE:**



LESSEE: N/A

SUBLESSEE: \$100,000

**SURETY BOND OR OTHER SECURITY:**

LESSEE: N/A

SUBLESSEE: N/A

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**SECTION 2  
SPECIAL PROVISIONS**

**BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED,  
REVISED, OR SUPPLEMENTED AS FOLLOWS:**

1. Lessee and Lessor shall execute, and Lessor shall record a memorandum of this lease in the official records of Riverside County.
2. Lessee shall not add or allow the placement by any other party of any additional improvements on the lease premises without the prior express written consent of Lessor. Lessee shall remove or cause any such unauthorized improvement to be immediately removed in accordance with all appropriate legal and regulatory requirements.
3. Pursuant to Section 3, paragraph 11 of this Lease, Lessor hereby consents and approves to the use and the subletting of the Lease Premises for the use and maintenance of the recreational vehicle campground to Reynolds Resorts – Blythe, LLC hereinafter referred to as “sublease” for the remaining term ending June 30, 2014, and three consecutive 5 year extensions; the first beginning July 1, 2014, ending June 30, 2019, the second beginning July 1, 2019, ending June 30, 2024, and the last beginning July 1, 2024, ending June 30, 2029.
4. Upon any amendment to the sublease, Lessee shall submit to Lessor a copy of such agreements 30 days prior to its execution by the parties for Lessor’s review. Lessor shall have the right to adjust the Annual Rent upon any amendment of the sublease, with the first rent review occurring no later than two years from July 1, 2014.
5. Any renewal or extension of the sublease term will require approval by the Lessor pursuant to Section 3, paragraph 11 of this Lease.
6. Sublease term, renewal or extension may not extend beyond the term of this lease.
7. Non-conforming Uses by Sublessee: Subleasing activities shall be in compliance with the terms and conditions of Section 1, Authorized Activities, of this Lease. If any sublessee uses the Lease Premises for any purpose not specifically authorized in this Lease, such non-conforming use shall be considered a default of the Lease and entitle Lessor to pursue its remedies as described in Section 3, paragraph 12(d).

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## SECTION 3

### GENERAL PROVISIONS

#### 1. GENERAL

In the case of any conflict between these General Provisions and Special Provisions found in Section 2, the Special Provisions control.

#### 2. DEFINITIONS

For the purposes of this Lease, the following terms shall be defined as stated below:

“Additions” shall be defined as any use or Improvements other than those expressly authorized in this Lease.

“Alterations” shall be defined as any material change in the size, scope, density, type, nature, or intensity of Improvements on the Lease Premises from what is authorized in this Lease. Alterations shall also include any modifications, alterations, or renovations of the land or waterways on the Lease Premises other than those authorized by this Lease.

“Breach” shall be defined as a party's unjustified or unexcused nonperformance of a contractual duty the party is required to immediately perform.

“Damages” shall include all liabilities, demands, claims, actions or causes of action whether regulatory, legislative or judicial in nature; all assessments, levies, losses, fines, penalties, damages, costs and expenses, including, without limitation: (i) reasonable attorneys', accountants', investigators', and experts' fees and expenses sustained or incurred in connection with the defense or investigation of any such liability, and (ii) costs and expenses incurred to bring the Lease Premises into compliance with Environmental Laws, a court order, or applicable provisions of a Regulatory Agency. The term “Damages” also includes, expressly, those Damages that arise as a result of strict liability, whether arising under Environmental Laws or otherwise.

“Default” shall be defined as a material Breach of magnitude sufficient to justify termination of the Lease.

“Environmental Law” shall be defined as and include all federal, state, and local environmental, health, and safety laws, statutes, ordinances, regulations, rules, judgments, orders, and notice requirements, which were in effect as of the date of execution of this Lease or are subsequently enacted and lawfully applied hereto, which regulate or relate to (a) the protection or clean-up of the environment; (b) the use, treatment, storage, transportation, handling or disposal of hazardous, toxic or otherwise dangerous substances, wastes or materials; (c) the quality of the air and the discharge of airborne wastes, gases, particles, or other emissions; (d) the preservation or protection of waterways, groundwater, or drinking water; (e) the health and safety of persons or property; or (f) impose liability with respect to any of the foregoing, including without limitation, the California Environmental Quality Act (CEQA) [PRC §§ 21000 et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 USCS §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) [42 USCS §§ 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) [33 USCS §§ 1251 et seq.]; the Toxic Substances Control Act (TSCA) [15 USCS §§ 2601 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 USCS §§ 1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act [7 USCS §§ 136 et seq.]; the Superfund Amendments and Reauthorization Act [42 USCS §§ 300f et seq.]; the Solid Waste Disposal Act [42 USCS §§ 6901 et seq.]; the Safe Drinking Water Act [42 USCS §§ 300f et seq.]; the Surface Mining Control and Reclamation Act [30 USCS §§ 1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 USCS §§ 11001 et seq.]; the Occupational Safety and Health Act [29 USCS §§ 655 and 657]; the California Underground Storage of Hazardous Substances Act [H & S C §§ 25280 et seq.]; the California Hazardous Substances Account Act [H & S C §§ 25300 et seq.]; the California Hazardous Waste Control Act [H & S C §§ 25100 et seq.]; the California Safe Drinking Water and Toxic Enforcement Act [H & S C §§ 24249.5 et seq.]; the Porter-Cologne Water Quality Act [Water C. §§ 13000 et seq.] together with any amendments of or regulations promulgated under the statutes cited above.

“Hazardous Material” shall be defined as and include any substance which falls within the definition of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste, pollutant, or contaminant, under any Environmental Law.

“Improvements” shall be defined as any modification, alteration, addition, or removal of any material, and any other action which serves to change the condition of the Lease Premises from the natural state whether situated above, on, or under the Lease Premises. Improvements include, but are not limited to buildings, structures, facilities, decks, docks, wharves, piers, walks, curbs, bridges, buoys, landscaping, roadways, shoreline protective structures of all types, foundations, pilings or similar support structures whether above or below the water line, fences, utilities, pipelines, and any other construction of any type situated on the Lease Premises.

“Lease” shall be defined as this lease contract together with all amendments and exhibits.

"Lease Premises" shall be defined as the area of land, together with any improvements located thereon, the use and occupancy of which is authorized by this Lease.

"Lessor" shall be defined as the state of California, acting by and through the California State Lands Commission, including the Commissioners, their alternates and designates, the Executive Officer, and the staff of the California State Lands Commission.

"Regulatory Agency" shall include any Federal, State, County, Municipal, or Local agency having jurisdiction over the Lease Premises.

"Repairs" shall be defined as all work of any kind made to maintain, change, restore, strengthen, replace, alter, or otherwise affect any improvement on the Lease Premises.

"Residence" shall be defined as any improvement, whether permanent, movable, or temporary, or a portion thereof, which is for the time being a home or place of lodging. A Residence includes any improvement affixed to the land such as trailers or cabins, built on a raised foundation such as stilts or pilings, and floating residences such as boats, barges, arks, and houseboats, and any combination of such improvements which provide residential accommodations to the Lessee or others. "Residence" shall not include transitory, intermittent, recreational use of facilities such as campgrounds.

"Residential Use" shall be defined as improvements such as, but not limited to, sundecks, and sunrooms which are extensions of, or additions to, the upland property and are not water-dependent uses. Although the various uses or improvements which may fall under this definition may vary by geographic area, lease type, or other factors, it is the intention of the parties to include in this definition all uses and improvements which are not water-dependent but residential in nature, or those uses and improvements which are not consistent with common law public trust principles and values.

### 3. CONSIDERATION

#### (a) Absolute Triple Net Lease

This Lease is an absolute triple net lease, pursuant to which Lessor has no obligation with respect to the payment of taxes, insurance, the cost of maintenance, utilities and repairs or other costs or obligations associated with the Leased Premises, except as expressly stated herein.

#### (b) Rent

Lessee agrees to pay Lessor rent as stated in this Lease, in annual installments, for the use and occupancy of the Lease Premises. The first installment shall be due on or before the beginning date of this Lease and all subsequent installments shall be due on or before each anniversary of its beginning date during each year of the Lease term, or as otherwise provided in this Lease. Said sums shall be paid in lawful money of the United States of America. Lessee shall send said rent to the mailing address of Lessor. Timeliness of receipt of remittances sent by mail shall be governed by the postmark date as stated in Government Code Section 11002. Invoices for rent due may be provided by Lessor as a courtesy. Lessor's failure to, or delinquency in, providing invoices shall neither excuse Lessee from paying rent, nor extend the time for paying rent.

#### (c) Modification

Lessor may modify the method, amount, or rate of consideration effective on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary, without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary of the beginning date. No such modification shall become effective unless Lessee is given at least thirty (30) days' notice prior to the date of the Commission meeting wherein the rent modification is considered, or thirty (30) days' notice prior to the effective date of the increase, whichever provides a greater notice period.

If the consideration for this Lease is based on a percentage of income, royalties, profits, or any similar business performance indicators, Lessee shall provide Lessor with financial statements and all other documents necessary to determine the relevant basis for income.

#### (d) Penalty and Interest

Any installments of rent accruing under this Lease not paid when due shall be subject to a delinquency charge equal to five percent (5%) of the principal sum due. Annual payments shall bear interest as specified in Public Resources Code Section 6224 and the Lessor's then existing administrative regulations governing penalty and interest.

#### (e) Non-Monetary Consideration

If the consideration to Lessor for this Lease is the public use, benefit, health, or safety, Lessor shall have the right to review

such consideration at any time and set a monetary rental if the Lessor, at its sole discretion, determines that such action is in the best interest of the State. Lessee's assignment or transfer of this Lease pursuant to Section 3 Paragraph 11 below to any third party which results in royalties, profits, or any form of compensation, whether monetary or otherwise, shall give Lessor the right to reevaluate the requirements of this Lease as stated in Section 3 Paragraph 11. Lessee shall be given at least thirty (30) days' notice prior to the date of the Commission meeting wherein the rent modification is considered, or thirty (30) days' notice prior to the effective date that this Lease is converted to a monetary rental, whichever provides more notice.

**(f) Place for Payment of Rent**

All rent that becomes due and payable under this Lease shall be paid to Lessor in person or by United States mail at the Sacramento Offices of the California State Lands Commission, currently at 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825-8202, or at any other place or places that Lessor may designate by written notice to Lessee. Alternately, Lessee may contact Lessor's accounting department for Lessor's current practices for payment by credit card or electronic fund transfer.

**4. BOUNDARIES**

This Lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary or title claims which may be asserted presently or in the future.

**5. LAND USE**

**(a) General**

(1) Lessee shall use the Lease Premises only for the purpose or purposes stated in this Lease and only for the operation and maintenance of the Improvements expressly authorized in this Lease. Lessee shall commence use of the Lease Premises within ninety (90) days of the beginning date of this Lease or within ninety (90) days of the date set for construction to commence as set forth in this Lease, whichever is later.

(2) All demolition, construction, remodeling, reconstruction, maintenance, repairs, removal, or remediation performed on the Lease Premises at any time by Lessee shall first be authorized by all appropriate Regulatory Agencies. Lessee is solely responsible for determining what approvals, authorizations, or certifications are required, and shall be solely responsible for all costs incurred thereby. In addition, Lessee shall obtain and comply with preventative or remedial measures required by any environmental reports, assessments, or inspections, including, but not limited to those required by the California Environmental Quality Act and/or the National Environmental Policy Act, or as otherwise required by law or reasonably requested by Lessor. Nothing in this Lease shall be interpreted as a pre-approval of any permit, certification, or any other precondition required for the use of the Lease Premises.

**(b) Continuous Use**

Lessee's use of the Lease Premises shall be continuous from commencement of the Lease until its expiration. Lessee's discontinuance of such use for a period of ninety (90) days shall be presumed to be an abandonment unless Lessee demonstrates to Lessor's satisfaction that Lessee's use of the Lease Premises is consistent with similarly situated properties. In the event of an abandonment, Lessor may elect to terminate the Lease as provided in Paragraph 12(a)(3). Abandonment of the Lease Premises shall not relieve Lessee of any obligations under this Lease.

**(c) Repairs and Maintenance**

(1) Lessor shall not be required to make any Repairs in, on, or about all or part of the Lease Premises. Lessee shall, at all times during the term of this Lease and without any cost or expense to Lessor, keep and maintain the Lease Premises, including all Improvements, in good order and repair and in a clean, safe, sanitary, and orderly condition.

(2) Lessee shall make, or cause to be made, any Repairs which may be required by any Regulatory Agency. Lessee shall observe and comply with, any law, statute, ordinance, plan, regulation, resolution, or policy applicable to the Lease Premises in making such Repairs. All work shall be performed with reasonable diligence, completed within a reasonable time, and performed at the sole cost and expense of Lessee.

(3) Lessee expressly accepts the Lease Premises "as is" and expressly acknowledges that:

(i) Lessor has made no representations or warranties as to the suitability of the Lease Premises for any Improvements. Lessee shall conduct all tests necessary to determine the suitability of the Lease Premises for any proposed use or Improvements authorized; and

(ii) Lessor has made no representations or warranties as to the quality or value of any Improvements found on the Lease Premises, or of their conformity to any applicable building codes, zoning ordinances, or other regulations. Lessee agrees

to inspect any preexisting Improvements at its own cost to determine whether such Improvements are safe and suitable for the Lessee's intended use; and

(iii) Lessee shall neither be entitled to any reduction in rent, nor any extension of the terms of this Lease because of damage to or destruction of any Improvements on the Lease Premises.

(iv) Lessee and Lessor agree that any Improvements on the Lease Premises constitute the personal property of Lessee and that fixture law does not apply.

(4) In the event that the Lease Premises is partly, or in whole, comprised of tidal, submerged, or waterfront property, Lessee expressly accepts the hazards involved in using or improving such lands. Lessor is not responsible for, and Lessee shall not be reimbursed for nor receive any offset of rent for, any damages or reduced use of the Lease Premises caused by: local or invasive flora or fauna, flooding, erosion, sea level rise, storms, freezing, inclement weather of any kind, acts of god, maintenance or failure of protective structures, and any other such hazards.

**(d) Additions, Alterations, and Removal**

No Improvements other than those expressly authorized in this Lease shall be constructed by the Lessee on the Lease Premises without the prior written consent of Lessor. Any Additions or Alterations are expressly prohibited. Lessee is also prohibited from any Additions or Alterations which cause a material change to the environmental impact on or around the Lease Premises.

**(e) Enjoyment**

This Lease is non-exclusive, and is subject to the provisions of Section 3, Paragraph 6 below. Lessee shall have the right to exclude persons from the Lease Premises only when their presence or activity constitutes a material interference with Lessee's use and enjoyment of the Lease Premises.

**(f) Discrimination**

Lessee, in its use of the Lease Premises, shall not discriminate against any person or class of persons on any basis protected by federal, state, or local law, including: race, color, creed, religion, national origin, sex, sexual orientation, gender identity, age, marital/parental status, veteran status, or disability.

**(g) Residential Use**

Unless otherwise provided for in this Lease, no portion of the Lease Premises shall be used as a location for a Residence, for the purpose of mooring or maintaining a structure which is used as a Residence, or for Residential Uses.

**(h) Commercial Use**

Unless otherwise provided for in this Lease, the Lease Premises is to be used by Lessee and Lessee's invitees or guests only. Use of the Lease Premises for commercial purposes; conducting a business, whether for profit or otherwise; and any subleasing, rental, or any transaction whereby Lessee directly or indirectly receives compensation from a third party in exchange for use of the Lease Premises shall constitute an immediate Default of this lease with no cure period.

**6. RESERVATIONS, ENCUMBRANCES, AND RIGHTS-OF-WAY**

**(a) Reservations**

(1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to timber, minerals, and geothermal resources as defined under Public Resources Code sections 6401, 6407, and 6903, respectively; the right to grant and transfer the same; as well as the right to grant leases in and over the Lease Premises which may be necessary or convenient for the extraction of such natural resources. Such leasing shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.

(2) Lessor expressly reserves a right to go on the Lease Premises and all Improvements for any purposes associated with this Lease or for carrying out any function required by law, or the rules, regulations, or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Lessee owned or occupied lands adjacent to the Lease Premises for any purpose associated with this Lease.

(3) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this Lease; however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.

(4) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease.

**(b) Encumbrances**

The Lease Premises may be subject to pre-existing contracts, leases, licenses, easements, encumbrances, and claims and is made without warranty by Lessor of title, condition, or fitness of the land for the stated or intended purpose.

**7. RULES, REGULATIONS, AND TAXES**

(a) Lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission or any Regulatory Agency. Occupancy or use of the Lease Premises provides no exemption from applicable regulations including, but not limited to, federal, state, county and local regulations, regulations promoting public health, safety, or welfare, building codes, zoning ordinances, and sanitation regulations. Lessee expressly acknowledges that Regulatory Agencies have jurisdiction over the Lease Premises unless such laws are in direct conflict with state law or public trust principles.

(b) Lessee understands and agrees that a necessary condition for the granting and continued existence of this Lease is that Lessee obtains and maintains all permits or other entitlements. Lessee expressly acknowledges that issuance of this Lease does not substitute for, or provide preference in obtaining authorizations from other Regulatory Agencies.

**(c) Taxes**

(1) In addition to the rent due under this Lease, Lessee accepts responsibility for and shall pay any and all real and personal property taxes, including possessory interest taxes, assessments, special assessments, user fees, service charges, and other charges of any description levied, imposed on, assessed, or associated with the leasehold interest, Improvements on the Lease Premises, any business or activity occurring on the Lease Premises, the Lease Premises itself, or any portion thereof, levied by any governmental agency or entity. Such payment shall not reduce rent due Lessor under this Lease and Lessor shall have no liability for such payment.

(2) In the event that this Lease commences, terminates or expires during a tax year, Lessee shall pay the taxes for the period of such year during which this Lease was in effect.

(3) Any and all taxes and assessments and installments of taxes and assessments required to be paid by Lessee under this Lease shall be paid when due and the official and original receipt for the payment of such tax, assessment, or installment shall be delivered to Lessor upon request.

(4) Lessee shall indemnify and hold Lessor, the Lease Premises, and any Improvements now or hereafter located thereon, free and harmless from any liability, loss, or Damages resulting from any taxes, assessments, or other charges required by this Lease to be paid by Lessee and from all interest, penalties, and other sums imposed thereon and from any sales or other proceedings to enforce collection of any such taxes, assessments, or other charges.

**8. INDEMNITY**

(a) Lessee's use of the Lease Premises and any Improvements thereon is at Lessee's sole and exclusive risk.

(b) In addition to any other obligation to indemnify Lessor as otherwise provided in this Lease, except to the extent caused by the sole negligence and/or willful misconduct of the Lessor, Lessee shall indemnify, hold harmless, and, at the option of Lessor, defend Lessor, its officers, agents, and employees from any and all Damages resulting from Lessee's occupation and use of the Lease Premises. Lessee shall reimburse Lessor in full for all reasonable costs and attorneys' fees, specifically including, without limitation, any Damages arising by reason of: (1) The issuance, enjoyment, interpretation, Breach, or Default of this Lease; (2) The challenge to or defense of any environmental review upon which the issuance of this Lease is based; (3) The death or injury of any person, or damage to or destruction of any property from any cause whatever in any way connected with the Lease Premises, or with any of the Improvements or personal property on the Lease Premises; (4) The condition of the Lease Premises, or Improvements on the Lease Premises; (5) An act or omission on the Lease Premises by Lessee or any person in, on, or about the Lease Premises; (6) Any work performed on the Lease Premises or material furnished to the Lease Premises; (7) Lessee's failure to comply with any material legal or other requirement validly imposed on Lessee or the Lease Premises by a Regulatory Agency.

(c) The reimbursement provisions of this Paragraph 8 shall not apply to any claims, litigation, or other actions which may be brought by either Lessee or Lessor against each other.

(d) Nothing in this paragraph shall be construed as requiring that Lessor defend itself against all or any aspect of any challenge to

this Lease or any associated environmental review. However, Lessee may take whatever legal action is available to it to defend this Lease or any associated environmental review against any challenge by a third party, whether or not Lessor chooses to raise a defense against such a challenge.

(e) Lessee shall notify Lessor immediately in case of any accident, injury, or casualty on the Lease Premises.

## 9. INSURANCE

(a) Lessee shall obtain and maintain in full force and effect during the term of this Lease comprehensive general liability insurance and property damage insurance, with such coverage and limits as may be reasonably requested by Lessor from time to time, but in no event for less than the sum(s) specified against any and all claims or liability arising out of the ownership, use, occupancy, condition, or maintenance of the Lease Premises and all Improvements.

(b) The insurance policy shall identify the Lease by its assigned number. The specific Improvements shall also be generally identified, as well as their location on state owned property. The coverage provided shall be primary and non-contributing. Lessee shall keep such policy current. Lessor shall be named as a "certificate holder" and/or an "additional interest" on the policy. Lessee shall provide Lessor with a current certificate of insurance at all times. At Lessor's request, Lessee shall provide a full copy of the current insurance policy, along with any and all endorsements or other such documents affecting the coverage. Lessor will not be responsible for any premiums or other assessments on the policy.

(c) The insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until Lessor has either accepted all of the Lease Premises as improved or restored by Lessee as provided elsewhere in this Lease. Lessee shall notify Lessor within five (5) business days if the insurance is canceled for any reason.

## 10. SURETY BOND

(a) When required by Section 1 of this Lease, Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California, California State Lands Commission as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants, and conditions of this Lease.

(b) Lessor may require an increase in the amount of the surety bond or other security device to cover any additionally authorized Improvements, any modification of consideration, or to provide for inflation or other increased need for security. The surety bond or other security device may be increased on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary, it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary. No such modification shall become effective unless Lessee is given at least thirty (30) days' notice prior to the date of the Commission meeting wherein the modification of the bond or security is considered, or thirty (30) days' notice prior to the effective date of the increase, whichever provides more notice.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until Lessor has either accepted all of the Lease Premises as improved or restored by Lessee as provided elsewhere in this Lease. Lessee must first seek approval of Lessor before changing the type of security device used, or the bond holder.

## 11. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

(1) Notwithstanding the foregoing prohibition against transfer and assignment, the Lease may be transferred by Lessee if the transfer is caused by the death of a spouse and the full interest of the deceased spouse is transferred to a surviving spouse; or the transfer is caused by the dissolution of the marriage of Lessee and the full interest of one of the spouses is transferred to the other spouse. In the event of such a transfer, Lessor shall be notified in writing within 30 days of the transfer.

(2) Notice to Lessor of Successor Trustee(s): In the event this Lease is held in trust, and the Lessee is a trustee thereof, the substitution or succession of a new trustee shall not be an assignment or transfer for the purposes of this Paragraph. Lessee (and by operation of law, any successor trustee) agrees to provide prompt notice to Lessor of any succession or substitution of trustee in accordance with Paragraph 16(c) of General Provisions, no later than sixty (60) days after the named trustee as appears on the face of this Lease becomes unable or ceases to serve as trustee for any reason.

(b) The following shall be deemed to be an assignment or transfer within the meaning of this Lease:

(1) If Lessee is a business entity, any dissolution, merger, consolidation or other reorganization of Lessee, or the sale or other



transfer of substantially all the assets of Lessee. If Lessee is a publicly traded entity, transfers of interests in Lessee shall not constitute an assignment requiring the consent of Lessor.

(2) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

(c) If this Lease is for sovereign lands appurtenant to adjoining littoral or riparian land, Lessee shall not transfer or assign its ownership interest or use rights in such adjoining lands separately from the leasehold rights granted herein without the prior written consent of Lessor.

(d) If Lessee desires to assign, sublet, encumber or otherwise transfer all or any portion of the Lease Premises, Lessee shall do all of the following:

(1) Give not less than 90 days' prior written notice to Lessor;

(2) Provide the name, complete business organization, operational structure, and formation documents of the proposed assignee, sublessee, secured third party, or other transferee; and the nature of the use of and interest in the Lease Premises proposed by the assignee, sublessee, secured third party or other transferee.

(3) Provide the terms and conditions of the proposed assignment, sublease, or encumbrance or other transfer;

(4) Provide audited financial statements for the two most recently completed fiscal years of the proposed assignee, sublessee, secured party or other transferee; and provide pro forma financial statements showing the projected income, expense and financial condition resulting from use of the Lease Premises; and

(5) Provide such additional or supplemental information as Lessor may reasonably request concerning the proposed assignee, sublessee, secured party or other transferee.

(6) Lessor will evaluate proposed assignees, sublessees, secured third parties and other transferees and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability, their business experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors.

(e) Lessor shall have a reasonable period of time from the receipt of all documents and other information required under this provision to grant or deny its approval of the proposed party. Lessor may reevaluate the rent, insurance and/or bond provisions of this Lease, and may condition its approval of the proposed assignment, sublease, hypothecation, mortgage, or other transfer on the party's acceptance of the new terms. Lessee's rights stated in this paragraph shall apply regardless of whether the proposed transfer coincides with a regular rent review period as stated in Section 3 Paragraph 3(c) above.

(f) Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions imposed by a separately negotiated encumbering agreement.

(g) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of assignment and not associated with Lessee's use, possession or occupation of or activities on the Lease Premises; except as to any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises during Lessee's tenancy.

(h) If the Lessee files a petition or an order for relief is entered against Lessee, under Chapters 7, 9, 11 or 13 of the Bankruptcy Code (11 USC Sect. 101, et seq.) then the trustee or debtor-in-possession must elect to assume or reject this Lease within sixty (60) days after filing of the petition or appointment of the trustee, or the Lease shall be deemed to have been rejected, and Lessor shall be entitled to immediate possession of the Lease Premises. No assumption or assignment of this Lease shall be effective unless it is in writing and unless the trustee or debtor-in-possession has cured all Defaults under this Lease (monetary and non-monetary) or has provided Lessor with adequate assurances (1) that within ten (10) days from the date of such assumption or assignment, all monetary Defaults under this Lease will be cured; and (2) that within thirty (30) days from the date of such assumption, all non-monetary Defaults under this Lease will be cured; and (3) that all provisions of this Lease will be satisfactorily performed in the future.

(i) In the event of any transfer or assignment, under this Paragraph 11 or by any other means authorized by this Lease, the Lease terms shall be for the remaining years existing on the Lease prior to the transfer or assignment. A transfer or assignment shall not extend the term of this Lease.

## 12. DEFAULT AND REMEDIES

### (a) Default

The occurrence of any one or more of the following events shall immediately and without further notice constitute a Default of this Lease:

- (1) Lessee's failure to make any payment of rent, royalty, or other consideration as required under this Lease; or
- (2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease; or
- (3) Lessee's abandonment of the Lease Premises (including the covenant for continuous use as provided for in Paragraph 5(b)) during the Lease term; or
- (4) Lessee's failure to obtain and maintain all necessary governmental permits or other entitlements; or
- (5) The maintenance of the Lease Premises in violation of, or failure to comply with, any applicable provisions of any Regulatory Agency, Environmental Law, or maintenance of the Lease Premises in a condition constituting nuisance; or
- (6) Lessee's Failure to commence to construct and to complete construction of the Improvements authorized by this Lease within the time limits specified in this Lease.
- (7) Lessee is found to sublet or otherwise surrender daily management and control of the Lease Premises to a third party without the knowledge, expressed written consent or authorization of the Lessor.

(b) Lessee's failure to observe or perform any other term, covenant, or condition of this Lease when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice shall constitute a Default of this lease. However, if the nature of Lessee's Default under this paragraph is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in Default if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

(c) Should Lessee Breach any term, covenant, or condition of this Lease under Paragraph 12(b) above three (3) times in any three hundred and sixty-five (365) day period, the third Breach will be a Default under this Lease and Lessor will be entitled to immediately terminate this Lease, and take other appropriate action. Lessor will provide written notice of each Breach as provided above, and provide written notice that future Breaches will constitute immediate Default with no cure period.

### (d) Remedies

In the event of a Default by Lessee and Lessee's failure to cure such Default if such a cure period is applicable, Lessor may at any time and with or without notice do any one or more of the following in addition to any rights or remedies permitted by law:

- (1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises; or
- (2) Terminate this Lease and Lessee's right of possession of the Lease Premises by any lawful means. The termination shall not relieve Lessee of any obligation, monetary or otherwise, which has accrued prior to the date of termination. Such termination shall be effective upon Lessor's giving written notice and upon Lessee's receipt of such notice. Lessee shall immediately surrender possession of the Lease Premises to Lessor. Lessor shall be entitled to recover from Lessee all amounts to which Lessor is entitled pursuant to Section 1951.2 of the California Civil Code, or any other provision of law, including any necessary Repair, renovation, alteration, remediation, or removal of Improvements; or
- (3) Maintain this Lease in full force and effect and recover any rent, royalty, or other consideration as it becomes due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises, subject to the conditions imposed by Cal. Civil Code § 1951.2; or
- (4) Exercise any other right or remedy which Lessor may have at law or equity.

**(e) Determination of Rental Value**

If rent under this Lease is calculated as a percentage of Lessee's income attributable to the Lease Premises and Lessee abandons the Lease Premises during some or all of the applicable period, then the reasonable rental value shall be the percentage of proceeds Lessor would have received had Lessee operated the Lease Premises in the usual and customary manner.

**(f) Waiver of Rights**

The failure or delay of either party to exercise any right or remedy shall not be construed as a waiver of such right or remedy or any Breach by the other party. Lessor's acceptance of any rent shall not be considered a waiver of any preexisting Breach by Lessee other than the failure to pay the particular rent accepted regardless of Lessor's knowledge of the preexisting Breach at the time rent is accepted.

**13. RESTORATION OF LEASE PREMISES AND ENVIRONMENTAL MATTERS**

**(a) Restoration of Lease Premises**

(1) Upon expiration or sooner termination of this Lease, Lessee must immediately surrender possession of the Lease Premises to Lessor. Prior to the time of surrender, Lessee must remove all or any Improvements together with the debris and all parts of any such Improvements at its sole expense and risk, regardless of whether Lessee actually constructed or placed the Improvements on the Lease Premises; or Lessor, at its sole and absolute discretion, may itself remove or have removed all or any portion of such Improvements at Lessee's sole expense. Lessor may waive all or any part of this obligation in its sole discretion if doing so is in the best interests of the State.

(2) As a separate and related obligation, Lessee shall restore the Lease Premises as nearly as possible to the conditions existing prior to the installation or construction of any Improvements. For purposes of this Lease, restoration includes removal of any landscaping; removal of any Hazardous Materials; and to the extent possible, undoing any grading, fill, excavation, or similar alterations of the natural features of the Lease Premises. Lessor may waive all or any part of this obligation in its sole and absolute discretion.

(3) Unless otherwise provided for in this Lease, Lessee shall submit to Lessor no later than one (1) year prior to the expiration of this Lease either: (a) an application and minimum expense deposit for a new lease for the continued use of the Lease Premises, or (b) a plan for the restoration of the Lease Premises to be completed prior to the expiration of the lease term together with a timeline for obtaining all necessary permits and conducting the work prior to the expiration of this Lease.

(4) In removing any or all Improvements, or conducting any restoration work, Lessee shall be required to obtain any permits or other governmental approvals as may then be required by any Regulatory Agency, including, without limitation, any Environmental Law.

(5) Lessor may, upon written notice, in its sole and absolute discretion, accept title to any or all Improvements at the termination of this Lease. Lessor shall notify Lessee that Lessor intends to take title to any or all Improvements within six (6) months of Lessee submitting a plan for restoration under Paragraph 13(a)(3)(b) above. If Lessor elects to take title to any such Improvements, Lessee shall deliver to Lessor such documentation as may be necessary to convey title to such Improvements to Lessor free and clear of any liens, mortgages, loans, or any other encumbrances. Lessor shall not pay, and Lessee shall not be entitled to compensation for Lessor's taking title to such property.

**(b) Environmental Matters**

**(1) Lessee's Obligations:**

(i) Lessee will not use, occupy, or permit any portion of the Lease Premises to be used or occupied in violation of any Environmental Law. Lessee shall not manufacture or generate or store Hazardous Material on the Lease Premises unless specifically authorized under other terms of this Lease.

(ii) Lessee shall practice conservation of water, energy, and other natural resources.

(iii) Lessee shall notify Lessor and the appropriate governmental emergency response agency, or agencies immediately in the event of any release or threatened release of any Hazardous Material.

(2) Lessor may at any time during the Lease term require Lessee to conduct at its own expense and by a contractor approved by Lessor an independent environmental site assessment or inspection for the presence or suspected presence of Hazardous

Material generated, used, placed, disposed, stored, or transported on the Lease Premises during the term of the Lease. Lessee shall provide the results of the assessment or inspection to Lessor and the appropriate governmental response agency or agencies and shall further be responsible for removing or taking other appropriate remedial action regarding such Hazardous Material in accordance with applicable Environmental Law.

**(3) Environmental Indemnity.**

Lessee shall indemnify, defend, and hold Lessor and Lessor's, officer, appointees, volunteers, employees, agents, successors and assigns free and harmless from and against all Damages that may at any time be imposed upon, incurred by, or asserted or awarded against Lessor in connection with or arising from any Breach of Lessee's obligations hereunder; or out of any violation by Lessee of any Environmental Law; or resulting in the imposition of any lien or claim for the recovery of any costs for environmental cleanup or other response costs relating to the release or threatened release of Hazardous Materials on the Lease Premises during the Lessee's tenancy. This obligation shall include any prior leases between Lessor and Lessee and will continue through any periods Lessee is in holdover, unlawful detainer, or any subsequent month-to-month tenancies created by operation of law. Lessee's obligations hereunder will survive the expiration or sooner termination of this Lease.

(4) Violation of this section shall constitute grounds for termination of the Lease. Lessor, shall notify Lessee when, in Lessor's opinion, Lessee has violated the provisions of this section. Lessee shall immediately discontinue the conduct and respond within five (5) business days. Lessee shall take all measures necessary to remedy the condition.

**14. QUITCLAIM**

Lessee shall, upon the early termination of this Lease and at Lessor's request, execute and deliver to Lessor in a form provided by Lessor a good and sufficient release of all rights under this Lease. Should Lessee fail or refuse to deliver such a release, Lessor may record a written notice reciting such failure or refusal. This written notice shall, from the date of its recordation, be conclusive evidence against Lessee of the termination of this Lease and all other claimants.

**15. HOLDING-OVER**

(a) This Lease shall terminate without further notice upon the expiration of the term of this Lease. Lessee shall have removed any Improvements and completed any restoration as required by Lessor prior to the expiration of this Lease, and shall surrender possession of the Lease Premises. Any failure by the Lessee to remove Improvements, restore the Lease Premises, and/or surrender possession of the Lease Premises at the expiration or sooner termination of this Lease shall not constitute a renewal or extension and shall not give Lessee any rights in or to the Lease Premises or any part thereof except as expressly provided in this Lease. Lessee shall be deemed in unlawful detainer of the Lease Premises and Lessor shall be entitled to all resulting legal remedies.

(b) Lessor may, in its sole discretion, choose to accept Rent for the Lease Premises instead of immediately taking legal action to recover possession of the Lease Premises. Any tenancy created by operation of law on Lessor's acceptance of rent shall be deemed a month-to-month tenancy regardless of what sum or sums Lessee delivers to Lessor. Except as set forth below, any subsequent tenancy created in this manner shall be on the same terms, covenants, and conditions set forth in this Lease insofar as such terms, covenants, and conditions can be applicable to a month-to-month tenancy

(c) In recognition of the increased accounting, land management, and supervisory staff time required for month-to-month tenancies, the rent for each month or any portion thereof during such holdover period shall be an amount equal to one hundred fifty percent (150%) of one-twelfth (1/12) of the total compensation for the most recent year paid. In the event this Lease does not require monetary compensation, Lessor shall have the right to establish rent based on the fair market value of the Lease Premises. The month-to-month tenancy may be terminated by Lessee or Lessor upon thirty (30) calendar days' prior written notice to the other.

**16. ADDITIONAL PROVISIONS**

**(a) Waiver**

(1) No term, covenant, or condition of this Lease and no omission, neglect, Default or Breach of any such term, covenant or condition shall be deemed to have been waived by Lessor's acceptance of a late or nonconforming performance or otherwise, unless such a waiver is expressly acknowledged by Lessor in writing. No delay or omission of Lessor to exercise any right or power arising from any omission, neglect, Default or Breach of term, covenant, or condition of this Lease shall be construed as a waiver or any acquiescence therein.

(2) Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition; of any successive Breaches of the same term, covenant, or condition; or of any other Default or Breach of any term, covenant or condition of this Lease.

**(b) Time**

Time is of the essence for this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

**(c) Notice**

All notices required to be given under this Lease shall be given in writing, sent by U.S. Mail with postage prepaid, to Lessor at the offices of the State Lands Commission and the Lessee at the address specified in this Lease. Lessee shall give Lessor notice of any change in its name or address.

**(d) Consent**

Where Lessor's consent is required under this Lease its consent for one transaction or event shall not be deemed to be a consent to any subsequent occurrence of the same or any other transaction or event.

**(e) Changes**

This Lease may be terminated and its term, covenants, and conditions amended, revised, or supplemented only by mutual written agreement of the parties.

**(f) Successors**

The terms, covenants, and conditions of this Lease shall extend to and be binding upon and inure to the benefit of the heirs, successors, and assigns of the respective parties.

**(g) Joint and Several Obligation**

If more than one Lessee is a party to this Lease, the obligations of the Lessees shall be joint and several.

**(h) Captions**

The section and paragraph captions used in this Lease are for the convenience of the parties. The captions are not controlling and shall have no effect upon the construction or interpretation of this Lease.

**(i) Severability**

If any term, covenant or condition of this Lease is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall remain valid and enforceable to the fullest extent permitted by law.

**(j) Representations**

Lessee agrees that no representations have been made by Lessor or by any person or agent acting for Lessor. Lessor and Lessee agree and acknowledge that this document contains the entire agreement of the parties, that there are no verbal agreements, representations, warranties or other understandings affecting this Lease, and Lessor and Lessee, as a material part of the consideration of this Lease, waive all claims against the other for rescission, damages, or otherwise by reason of any alleged covenant, agreement or understanding not contained in this Lease.

**(k) Gender and Plurality**

In this Lease, the masculine gender includes both the feminine and neuter, and the singular number includes the plural whenever the context so requires.

**(l) Survival of Certain Covenants**

All covenants pertaining to bond, insurance, indemnification, restoration obligations, Breach, Default, and remedies shall survive the expiration or earlier termination of this Lease until Lessee has fulfilled all obligations to restore the Lease Premises as required by this Lease.

**(m) Counterparts**

This agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same agreement.

**(n) Delegation of Authority**

Lessor and Lessee acknowledge Lessor as defined herein includes the Commission Members, their alternates or designees, and the staff of the Commission. The ability of staff of the Commission to give consent, or take other discretionary actions described herein will be as described in the then-current delegation of authority to Commission staff. All other powers are reserved to the Commission.

This Lease shall become effective only when approved by and executed on behalf of the State Lands Commission of the State of California and a duly executed copy has been delivered to Lessee. The submission of this Lease by Lessor, its agent, or representative for examination by Lessee does not constitute an option or offer to lease the Lease Premises upon the terms and conditions contained herein, or a reservation of the Lease Premises in favor of Lessee. Lessee's submission of an executed copy of this Lease to Lessor shall constitute an offer to Lessor to lease the Lease Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

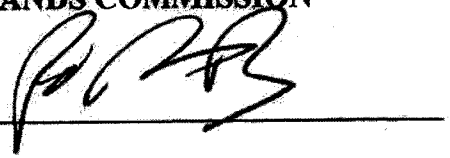
**LESSEE:**

**LESSOR:**

**RIVERSIDE COUNTY REGIONAL  
PARK AND OPEN SPACE DISTRICT**

**STATE OF CALIFORNIA  
STATE LANDS COMMISSION**

By: 

By: 

Name: Kevin Jeffries

Title: Chief  
Land Management Division

Title: Chairman, Board of Directors

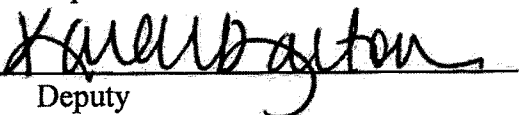
Date: DEC 09 2014

Date: OCT 28 2014

Execution of this document was authorized  
by the California State Lands Commission on

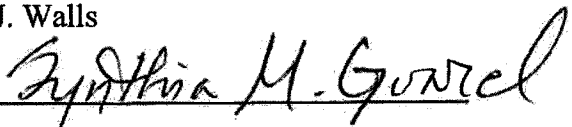
ATTEST:  
Clerk of the Board  
Kecia Harper-Ihem

JUNE 19, 2014  
(Month Day Year)

By:   
Deputy

APPROVED AS TO FORM:

County Counsel  
Pamela J. Walls

By: 

Name: Synthia M. Gunzel

Title: Deputy County Counsel

**ATTACH NOTARY ACKNOWLEDGEMENTS**

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

} §

On October 28, 2014, before me, Karen Barton, Board Assistant, personally appeared Kevin Jeffries, Chairman of the Board of Directors of the Regional Park and Open-Space District, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument; and that a copy of this paper, document or instrument has been delivered to the chairperson.

I certify under the penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Kecia Harper-Ihem  
Clerk of the Board of Supervisors

By:   
Deputy Clerk

(SEAL)

## EXHIBIT A

PRC 9128.1

### LAND DESCRIPTION

A parcel of State owned sovereign land situate in the historic channel of the Colorado River, County of Riverside, State of California and more particularly described as follows:

BEGINNING at a 1¼ inch iron pipe tagged "COUNTY SURVEYOR" having CCS 83 Zone 6 coordinates of Northing (y)=2167616.07 feet and Easting (x)=7083550.86 feet which bears South 74° 49' 58" West 1584.46 feet from NGS monument "EHREN" (PID DW1289) having CCS 83 Zone 6 published coordinates of Northing (y)=2168030.63 feet and Easting (x)=7085080.13 feet, said iron pipe also being the common corner of Sections 35 and 36 T.6 S., R. 23 E. and Sections 1 and 2 T.7 S., R. 23 E. S.B.M. as shown on that Record of Survey, filed on June 29, 1961 in Book 34 at pages 36 and 37 Riverside County Recorder's Office; thence along the west line of the southwest quarter of said Section 36 North 1° 53' 08" West 200.32 feet to a point on a right bank of the historic channel of said river; thence leaving said section line and along said right bank of said historic channel North 64° 14' 00" East 516.70 feet to a point on the southerly line of the right-of-way of California State Highway Route 64 (U.S. No. 60), as per California State Highway Right-of-Way Map XI-Riv.-64-F, Colorado River Bridge Plans, also being a point on a non-tangent curve concave northeasterly and having a radius of 10,200.00 feet, a radial line of said curve at said point bears North 16° 39' 54" East; thence easterly along said southerly line, through a central angle of 01° 28' 22", for an arc distance of 262.20 feet; thence continue along said southerly line South 74° 48' 28" East 234.35 feet to a point on the historic center line of said historic channel; thence leaving said southerly line and along said center line South 60° 15' 36" West 106.32 feet; thence South 62° 09' 54" West 1141.52 feet; thence South 62° 54' 10" West 139.48 feet to a point on the northwesterly line of that parcel described in the Quitclaim Deed recorded on January 6, 1975 as Instrument No. 1431 Official Records of said Riverside County; thence leaving said center line and along said northwesterly line North 32° 42' 52" East 423.59 feet to the north line of said Section 2; thence along said north section line North 88° 37' 52" East 60.00 feet to the POINT OF BEGINNING.



EXCEPTING THEREFROM any portion lying landward of the low water mark of the right bank of historic channel of said Colorado River.

BASIS OF BEARINGS for this description is CCS83 Zone 6 (Epoch 1992). All distances are grid distances.

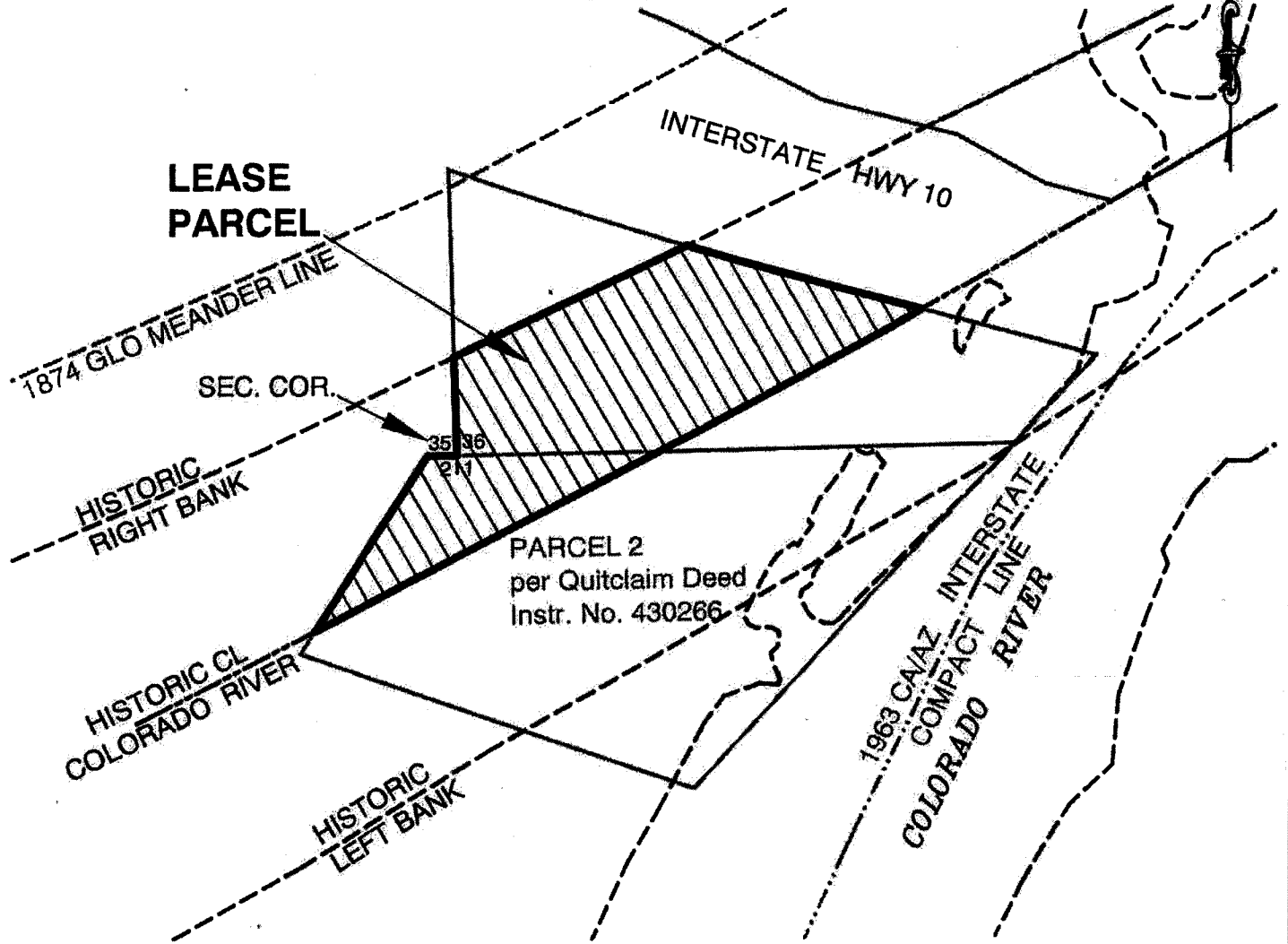
**END OF DESCRIPTION**

Prepared 05/15/14 by the California State Lands Commission Boundary Unit



NO SCALE

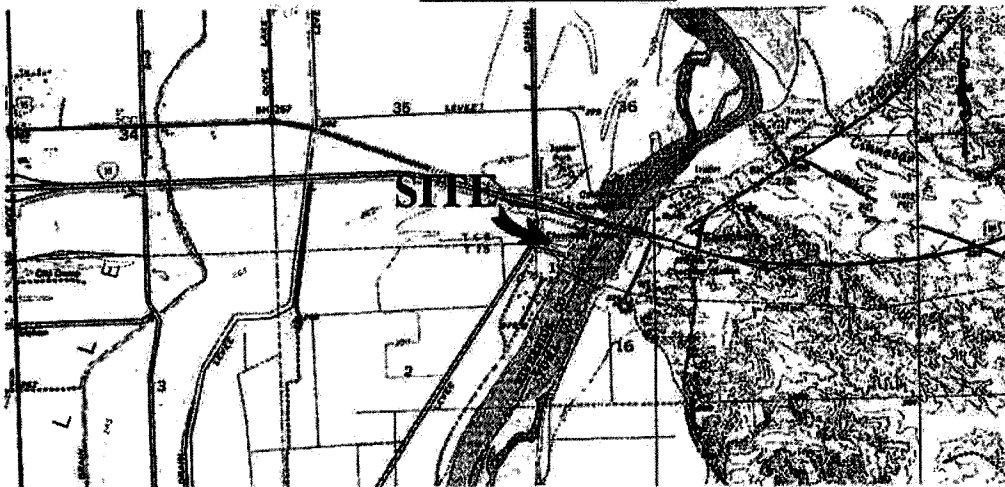
### SITE



PORTIONS OF SEC. 36, T6S, R23E, SEC., 1 & 2 T7S, R23E, SBM, CITY OF BLYTHE, COLORADO RIVER

NO SCALE

### LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

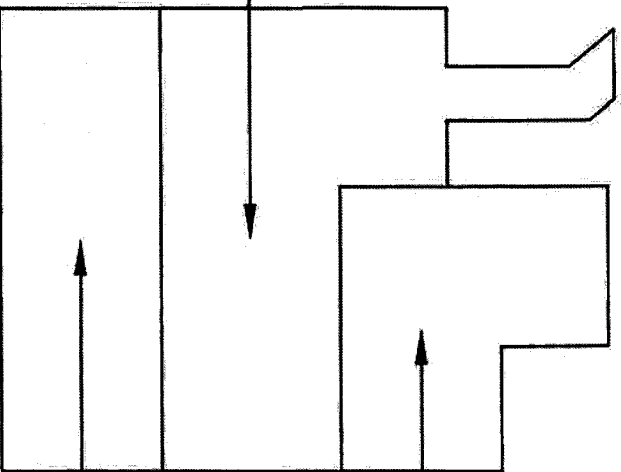
### Exhibit B

PRC 9128.1  
 RIVERSIDE COUNTY REGIONAL  
 PARK & OPEN SPACE DISTRICT  
 APNs 833-290-006 & 869-230-012  
 GENERAL LEASE-  
 COMMERCIAL USE  
 RIVERSIDE COUNTY



TS 05/15/14

Site 1 : Parcel 1  
Area : 350.21



Site 1 : Parcel 2  
Area : 198.00

Site 1 : Parcel 3  
Area : 234.08



This Lease shall become effective only when approved by and executed on behalf of the State Lands Commission of the State of California and a duly executed copy has been delivered to Lessee. The submission of this Lease by Lessor, its agent, or representative for examination by Lessee does not constitute an option or offer to lease the Lease Premises upon the terms and conditions contained herein, or a reservation of the Lease Premises in favor of Lessee. Lessee's submission of an executed copy of this Lease to Lessor shall constitute an offer to Lessor to lease the Lease Premises on the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date hereafter affixed.

**LESSEE:**

**LESSOR:**

**RIVERSIDE COUNTY REGIONAL  
PARK AND OPEN SPACE DISTRICT**

**STATE OF CALIFORNIA  
STATE LANDS COMMISSION**

By: 

By: \_\_\_\_\_

Name: Kevin Jeffries

Title: \_\_\_\_\_

Title: Chairman, Board of Directors

Date: \_\_\_\_\_

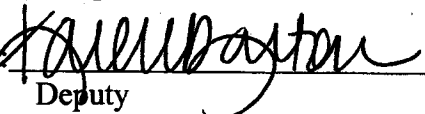
Date: OCT 28 2014

This Lease was authorized by the  
California State Lands Commission on

**ATTEST:**

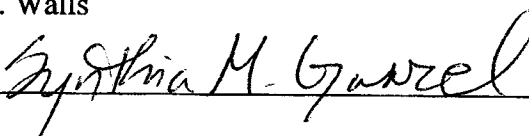
Clerk of the Board  
Kecia Harper-Ihem

\_\_\_\_\_  
(Month Day Year)

By:   
Deputy

**APPROVED AS TO FORM:**

County Counsel  
Pamela J. Walls

By: 

Name: Synthia M. Gunzel

Title: Deputy County Counsel

**ATTACH NOTARY ACKNOWLEDGEMENTS**

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

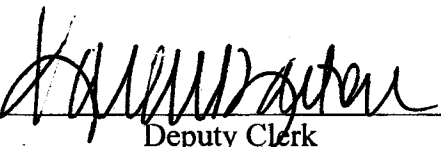
} §

On October 28, 2014, before me, Karen Barton, Board Assistant, personally appeared Kevin Jeffries, Chairman of the Board of Directors of the Regional Park and Open-Space District, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument; and that a copy of this paper, document or instrument has been delivered to the chairperson.

I certify under the penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Kecia Harper-Ihem  
Clerk of the Board of Supervisors

By:   
Deputy Clerk

(SEAL)

**EXHIBIT A**

**PRC 9128.1**

**LAND DESCRIPTION**

A parcel of State owned sovereign land situate in the historic channel of the Colorado River, County of Riverside, State of California and more particularly described as follows:

BEGINNING at a 1¼ inch iron pipe tagged "COUNTY SURVEYOR" having CCS 83 Zone 6 coordinates of Northing (y)=2167616.07 feet and Easting (x)=7083550.86 feet which bears South 74° 49' 58" West 1584.46 feet from NGS monument "EHREN" (PID DW1289) having CCS 83 Zone 6 published coordinates of Northing (y)=2168030.63 feet and Easting (x)=7085080.13 feet, said iron pipe also being the common corner of Sections 35 and 36 T.6 S., R. 23 E. and Sections 1 and 2 T.7 S., R. 23 E. S.B.M. as shown on that Record of Survey, filed on June 29, 1961 in Book 34 at pages 36 and 37 Riverside County Recorder's Office; thence along the west line of the southwest quarter of said Section 36 North 1° 53' 08" West 200.32 feet to a point on a right bank of the historic channel of said river; thence leaving said section line and along said right bank of said historic channel North 64° 14' 00" East 516.70 feet to a point on the southerly line of the right-of-way of California State Highway Route 64 (U.S. No. 60), as per California State Highway Right-of-Way Map XI-Riv.-64-F, Colorado River Bridge Plans, also being a point on a non-tangent curve concave northeasterly and having a radius of 10,200.00 feet, a radial line of said curve at said point bears North 16° 39' 54" East; thence easterly along said southerly line, through a central angle of 01° 28' 22", for an arc distance of 262.20 feet; thence continue along said southerly line South 74° 48' 28" East 234.35 feet to a point on the historic center line of said historic channel; thence leaving said southerly line and along said center line South 60° 15' 36" West 106.32 feet; thence South 62° 09' 54" West 1141.52 feet; thence South 62° 54' 10" West 139.48 feet to a point on the northwesterly line of that parcel described in the Quitclaim Deed recorded on January 6, 1975 as Instrument No. 1431 Official Records of said Riverside County; thence leaving said center line and along said northwesterly line North 32° 42' 52" East 423.59 feet to the north line of said Section 2; thence along said north section line North 88° 37' 52" East 60.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying landward of the low water mark of the right bank of historic channel of said Colorado River.

BASIS OF BEARINGS for this description is CCS83 Zone 6 (Epoch 1992). All distances are grid distances.

**END OF DESCRIPTION**

Prepared 05/15/14 by the California State Lands Commission Boundary Unit







# Amended and Restated Southerly Blythe Marina Lease/Sublease

---

By and Between the Riverside County Regional  
Park and Open-Space District and Reynolds  
Resorts-Blythe, LLC

500 Riviera Drive, Blythe CA 92225

10/14/2014

OCT 28 2014

13-1D

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**EXHIBITS**

- Exhibit A Legal Description of District Property
- Exhibit B State Lands Commission Lease P.R.C. No. 9128.1 and Legal Description of SLC Property
- Exhibit C Schedule for Payment of Possessory Interest Taxes for Leasehold Interest
- Exhibit D Estoppel Certificates Forms
- Exhibit E Memorandum of Lease Form

**AMENDED AND RESTATED  
SOUTHERLY BLYTHE MARINA LEASE/SUBLEASE**

THIS AMENDED AND RESTATED SOUTHERLY BLYTHE MARINA LEASE/SUBLEASE (“Lease”) is made as of the \_\_\_\_\_, by and between the Riverside County Regional Park and Open-Space District, a park and open-space district, (“District”) and Reynolds Resorts-Blythe, LLC, a California limited liability company (“Lessee”).

**RECITALS**

A. District, as the successor-in-interest to the County of Riverside, is the current owner of that certain real property located in the Palo Verde Valley adjacent to the Colorado River, situated immediately south of the Interstate 10 highway, in the City of Blythe, County of Riverside, California, commonly known as the Southerly Blythe Marina, 500 Riviera Drive, Blythe, CA (“District Property”), more particularly described in Exhibit “A”, attached hereto and by this reference incorporated herein.

B. The County of Riverside, a political subdivision of the State of California, as Lessor, and Cavan, Inc., as Lessee, entered into that certain Southerly Blythe Marina Lease on or around January 1, 1970 for the District Property, whereby the Lessee operated and maintained a campground, camp store, picnic area, boat launch ramp, coin-operated games, clothes washing facilities, and a swimming pool.

C. The County of Riverside, a political subdivision of the State of California, as Lessor, and J& W Enterprises, a California Partnership, as successor-in-interest to Cavan, Inc. as Lessee, updated the Southerly Blythe Marina Lease on May 10, 1983, (“Original Lease”) which has been subsequently amended by that certain First Amendment dated June 28, 1983, that certain Second Amendment dated July 8, 1983, that certain Memorandum of Understanding dated November 4, 1986, that certain Third Amendment dated June 30, 1992, assigned to Alpine RV Resorts AKA Alpine – Riviera, LLC and amended by that certain Fourth Amendment dated July 28, 1998.

D. On or around July 29, 1998, the County conveyed to the District the real property for what is commonly known as the Southerly Blythe Marina and is the subject property in the Original Lease and all amendments referenced above.

E. The District and Reynolds Resorts – Blythe, LLC, as Lessee, the assignee and successor in interest to Alpine RV Resorts AKA Alpine – Riviera, LLC, amended the Original Lease with a Fifth Amendment dated April 20, 2010 to provide for, among other things, the

District's consent to the Lessee's exercise of its option to extend the lease with the terms and conditions set forth herein.

F. Certain lands, more particularly described in Exhibit "B", attached hereto and by this reference incorporated herein, under the authority of the California State Lands Commission ("SLC") located adjacent to the District Property is within the Southerly Blythe Marina area ("SLC Property").

G. The SLC Property is subject of and subject to the terms and conditions of that certain Lease PRC No. 9128.1 dated July 1, 2014 between the SLC and the District and approved on June 19, 2014 by the SLC, attached as Exhibit "B" and by this reference incorporated herein, whereby the SLC leased the SLC Property to the District and endorsed the District to sublease the SLC Property to Lessee.

H. The Reynolds Resorts – Blythe, LLC is a manager-managed limited liability company whereby the majority interest member, Thomas Reynolds, has made a partial assignment amounting to forty-nine percent (49%) manager-member interest in Reynolds Resorts-Blythe, LLC and the operations and management responsibilities in the Original Lease and the facilities/improvements on the Leased Premises to Robert and Christine Johnson, as Assignees.

I. The District desires to consent to the assignment and enter into this certain Amended and Restated Southerly Blythe Lease/Sublease with Reynolds Resorts-Blythe LLC, as Lessee, collectively the Lease of the District Property and Sublease of the SLC Property will hereinafter be referenced as the "Lease," together with all rights, privileges, and easements appurtenant to the property, and the buildings, structures, and other improvements thereon. The District Property and the SLC Property, unless specifically referenced below, such appurtenant rights, privileges and easements and such buildings and improvements, if any, are collectively referred to as the "Leased Premises."

## **AGREEMENT**

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, District and Lessee hereby agree as follows:

### **Section 1. Lease of Premises.**

1.1 Letting. District hereby leases to Lessee, and Lessee hereby leases from District, the Leased Premises for the term, at the rental amounts and upon the terms, covenants and conditions set forth in this Lease, including at the terms, conditions and limitations in Lease PRC

No. 9128.1. In particular, Section 2, Special Provisions of the Lease PRC No 9128.1 expressly limits the District and Lessee pertaining to the making of improvements on SLC Property, executing amendments, renewals or extensions to this Lease or changing the use of the SLC Property.

1.2 Defined. The Leased Premises shall consist of that certain real property, including all improvements therein or to be constructed or improved by Lessee under the terms of this Lease, and commonly known as Southerly Blythe Marina, located in the City of Blythe, County of Riverside, State of California, consisting of approximately 21.55 acres of the following:

1.2.1 District Property. The real property also identified as Assessor's Parcel Number(s) 869-230-012 and 833-290-006 and as legally described on Exhibit "A", attached hereto and by this reference incorporated herein.

1.2.2 SLC Property. The real property, more particularly legally described and shown in Exhibit "B", attached hereto and by this reference incorporated herein.

It is understood that the Leased Premises include all appurtenances and easements thereto and the non-exclusive right of ingress and egress at all times to and from the public streets and highways for Lessee, its employees and invitees.

1.3 Lease Subject to Easements and Trusts. It is expressly understood and agreed that this Lease and all rights and privileges hereunder granted are subject to all easements and rights of way now existing in, to, under or over the Leased Premises for any purpose whatsoever, interests, which are of public record and certain unrecorded rights such as a certain unrecorded Lease dated July 1, 2014 with the State Lands Commission, referenced as Lease P.R.C. No. 9128.1, attached hereto as Exhibit "B" and by this reference incorporated herein. This includes rights in the various utilities which are upon and below the surface of the ground, particularly the interstate gas lines and telephone and telegraph coaxial cables. It is further understood and agreed that this Lease and any of the rights and privileges herein granted shall be subject to any trusts, permits and licenses upon which said lands are held by or leased to the District, and Lessee covenants and agrees that it will not use or permit said Leased Premises to be used for any purpose or purposes inconsistent with any of the trusts, licenses and permits upon which said lands are held by District.

## **Section 2. Term.**

The term of this Lease shall be effective upon the date of its full execution by the Parties hereto commencing on July 1, 2014 or on the date the SLC consents to this Lease for the SLC Property, whichever is later ("Commencement Date"), and shall continue for thirty (30) year(s) ("Term"),

unless sooner terminated or extended as herein provided, shall expire at midnight on the last day of the June 30, 2044 contingent upon obtaining consent by the SLC. The parties intend to enter into this Lease conditioned upon receipt of consent and endorsement by the SLC for the extended term period. In the event that the SLC does not consent to the full term period provided herein, then this lease is canceled and the Parties shall continue the lease term and conditions, pursuant to the Southerly Blythe Marina Lease as identified in the Recitals set forth above. Any holding over by Lessee after the expiration of this Lease shall be on a month-to-month basis strictly, and continuing tenancy rights shall not accrue to Lessee.

### **Section 3. Rent.**

Lessee shall pay Base Rent and Additional Rent as described below (sometimes collectively referred to as "Rent") during the Term, or any extension thereof, to District on a monthly basis, without demand, as follows:

3.1 **Base Rent.** A minimum rental amount ("Minimum Rent") of Eight Hundred Thirty Three Even Dollars (\$833.00) or the percentage amount equal to seven percent (7%) of the total monthly gross receipts ("Gross Receipts") in its operations on the Leased Premises, whichever is greater, is due and payable by Lessee except as otherwise provided in Section 3.2 herein, for the use and occupancy of the Leased Premises, reconciled monthly.

3.2 **Additional Rent.** Lessee shall pay to District as Additional Rent the percentage amount equal in the following described sums for gross sales receipts of fuel associated with operation of the marine fuel dock use set forth in Section 4.9 of the Lease, payable monthly and in the manner set forth below:

3.2.1 One percent (1%) of the gross sales on the first twenty thousand (20,000) gallons of fuel sold each calendar year;

3.2.2 One and one-half percent (1.5%) of the gross sales on the next thirty thousand (30,000) gallons (from 20,001 to 50,000) sold each calendar year;

3.2.3 Two percent (2%) of the gross sales on the next twenty thousand (20,000) gallons (from 50,001 to 70,000) sold each calendar year;

3.2.4 Two and one-half percent (2.5%) of the gross sales on the next ten thousand (10,000) gallons (from 70,001 to 80,000) sold each calendar year;

3.2.5 Three percent (3%) of any and all gross sales in excess of eighty thousand gallons (80,001) sold each calendar year.

The Additional Rent due is based upon the computation of the number of gallons sold for the entire calendar year. Once the gross sales of fuel reach the gallons specified in Section 3.2 above for each percentage payment level, the corresponding payment amount shall be made in the current monthly payment of Rent. In other words, 1% of gross sales receipts of fuel is due as Additional Rent on the first 20,000 gallons of fuel sold even if not sold within one calendar month. Once the cumulative total of 20,001 up to 50,000 gallons of fuel has been sold, 1.5% of gross sales receipts of fuel is due and payable during the current calendar month in which such sales is reached, and so on. In the event that gallons sold during a current calendar month reaches the next percentage threshold, then the Additional Rent shall be the sum of the percentage calculations for each corresponding percentage.

3.3 For purposes of the terms and conditions regarding the calculation of Rent due under this Lease, a "calendar year" is defined as the twelve (12) month period beginning January 1 and ending December 31 and each twelve (12) month period thereafter until the end of the Lease Term.

3.4 Beginning the 1<sup>st</sup> of the month following the commencement of the Lease Term, and on the 1<sup>st</sup> of each month thereafter, the Lessee shall compute a verified statement of its cumulative total gross receipts as defined herein through the close of the preceding month. Together with such monthly statement, the Lessee shall pay to the District, the Rent required hereunder within twenty (20) days after the end of the calendar month in which Rent accrues. The failure of Lessee to make such timely rental payment being considered a material breach of the terms and conditions hereof, and a late payment fee of seven percent (7%) will be due and payable on any rental not paid within such time, and an additional fee of seven percent (7%) will be assessed every thirty (30) days thereafter until payments are received and rent is current.

3.5 For the purposes of this Lease, "Gross Receipts" shall mean the gross selling price of all merchandise sold, and gross rental rate of all merchandise or space rented from the Leased Premises by Lessee, its licensees, concessionaires, whether for cash or on credit except as provided for the gross receipts for the sale of fuel provided herein this Section 3. Gross Receipts shall include any sums that Lessee receives from pay telephones, stamp machines, or public toilet locks. Gross Receipts shall not include: the selling price of all merchandise returned by customers or the amount of discounts, refunds and allowances made on such merchandise; sums and credits received in settlement of claims for loss of or damage to merchandise; sales and use taxes, excise taxes, and other similar taxes imposed on the sale of merchandise or services by any governmental entity and collected by the Lessee from customers; sales of fixtures, trade fixtures, or personal property that Lessee has the right to remove from the Leased Premises under the terms of this Lease; or pass-through electricity bills or charges that are due by the customers of the Riviera Resort campground/marina. It is agreed that the foregoing provisions for Additional Rent on the sale of fuel (set forth herein) are intended to be the sole and exclusive provisions



regarding the computation of Additional Rent for the sale of fuel and is not included in the computation of the Base Rent.

3.6 Lessee shall keep complete, accurate and appropriate books and records of monthly Gross Receipts. Lessee shall keep true and accurate books and records showing all of its business transactions in separate records of account for its operations in a manner acceptable to the District and the District shall have the right through its representative and at all reasonable times, to inspect such books and records including State of California sales tax return records and Lessee hereby agrees that all such records and instruments are available to the District. The District further reserves the right to examine all such books and records at any time during the one (1) year period following the termination of this Lease.

3.7 Lessee will submit to the District, no later than forty-five (45) days after the close of each calendar year, a profit and loss statement prepared by Lessee for the calendar year immediately preceding. Said statement shall contain an appropriate certification by a Certified Public Accountant that all gross sales receipts during the yearly accounting period have been duly and properly reported to the District. Lessee shall preserve such books, records, documents, and other items for a period of three calendar years after such statement is rendered.

3.8 Lessee agrees that as part of its record-keeping activity it shall, at its own cost and expense, install and maintain such cash register equipment as may be deemed necessary by the District. Such cash register equipment shall contain a continuous registering tape.

3.9 Location for Payment. All Rent (and all other moneys and charges payable by Lessee to District hereunder) shall be paid by Lessee to District in lawful money of the United States of America at District's address for notices hereunder, or to such other person or at such other place as District may from time to time designate by notice in writing to Lessee.

**Section 4. Use.**

Lessee shall have the right to use the Leased Premises for the operation of a travel trailer park and campground; provided, however, in no event shall the Leased Premises be used for any purpose or use (nor shall any activity be carried on upon the Leased Premises) which in any manner causes, creates or results in a public or private nuisance. Lessee shall not use or permit the Leased Premises to be used in whole or in part during the term of this Lease for any purpose other than as herein set forth, without the prior written consent of the District. Lessee shall be permitted to engage in the following activities upon the Leased Premises for the operation of a travel trailer park under the trade name of Riviera Resort:

4.1 Rental of parking spaces for campers, trailers, recreational vehicles, off-road

vehicles, motorhomes, and similar vehicles, and space for tents and campsites.

4.2 Hot and cold food and beverage services, including food that is pre-packaged or prepared onsite, subject to Lessee obtaining all requisite licenses and permits from the appropriate governmental or licensing agencies for the preparation and sale of food and beverages to be consumed on or off the Leased Premises.

4.3 Use of open fires or barbeques, which shall be permitted in designated areas only.

4.4 A grocery store stocked with sundry items, off-sale beer and wine, propane, merchandise and accessories which are suitable for camping and boating activities.

4.5 Laundry facilities for campers use.

4.6 Coin-operated vending machines.

4.7 Operation of a launching and recovery boat ramp and float.

4.8 Lessee may install or erect signs that are reasonably appropriate for the operation of the facilities to aid the public in locating the facilities, being advised as to the fees and prices and to provide warnings and other information as may be appropriate. Lessee shall establish a sign program compatible with District's sign program as a part of its planning process which will be approved by the District. Additional signs, names, placards or advertising matter shall not be inscribed, painted or affixed upon said Leased Premises, circulated or published without prior written consent of District. Lessee shall maintain all signs in good condition.

4.9 Lessee may operate a marine fuel dock situated in the river and physically connected to the land which is subject of the Lease, at which Lessee may sell fuel and oil for water craft, boating accessories and equipment. Operation of a marine fuel dock shall include having and maintaining: all necessary utilities from source to float dock for fuel facilities, any remote reading facilities from float dock to the store for proper monitoring of amounts sold, clearance of the channel around the fuel dock and up to the north end of the channel at the bridge, the provision of personnel to operate the fuel facilities, an intercom from the float dock to the store, appropriate safety and shut-off device, and all such facilities and pay for all utilities used in connection with the operation of the same. Lessee shall comply with all the laws applicable to the installation and operation of the marine fuel dock authorized herein.

4.10 Operation. This operation shall be kept open on a year-round basis and shall be pursued in a courteous, diligent and prudent manner. Lessee shall operate the facility in a manner which shall both maximize gross receipts and be of greatest convenience to the public.

**Section 5. Quiet Enjoyment.**

District covenants that upon payment by Lessee of the Rent herein reserved and upon performance and observance by Lessee of all of the agreements, covenants and conditions herein contained on the part of Lessee to be performed and observed, Lessee shall peaceably hold and quietly enjoy the Leased Premises during the entire Term without unreasonable hindrance or interruption by District. Lessee, in turn, agrees to quit and deliver up possession of Leased Premises peaceably and quietly at the expiration of said term or any sooner termination as contained within this Lease.

**Section 6. Taxes and Assessment.**

Lessee recognizes and understands that this Lease creates a possessory interest subject to property taxation and that the Lessee is subject to the payment of property taxes levied on such interest. Lessee shall pay, before delinquency, all lawful taxes, assessments, water charges, sewer charges, utility rates and fees, levies or other charges, general, special, ordinary, extraordinary and otherwise, of every kind and character which are or may during the Term, including taxes on possessory interest, which, during the term hereof, may be or become a lien, charge or assessment, or may be levied or imposed, upon the leasehold estate created hereby, or upon the subject matter of this Lease, Lessee's improvements or personal property situated upon the Leased Premises, or upon the subject matter of this Lease, now or hereafter located thereon. Notwithstanding the foregoing provision in this Section 6 pertaining to the payment of possessory interest taxes, Lessee shall pay the possessory interest taxes in increased incremental amounts over the next four years when taxes become due as the estimates are shown in Exhibit "C", attached hereto and by this reference incorporated herein. The percentage share amounts have been agreed upon between the parties; however, the actual calculated amount of taxes due is only an estimate and provided for illustration only. At year five (5) of the Term of this Lease, Lessee shall be responsible for the entire amount due for possessory interest taxes by the appropriate taxing agency.

**Section 7. Improvements by Lessee.**

7.1 Lessee desires to construct additional facilities, and Lessee may do so, on the terms and conditions hereafter set forth. Before any work of construction, alteration or repair is commenced on the Leased Premises, and before any building materials have been delivered to the Leased Premises by Lessee or under Lessee's authority, Lessee shall comply with all the following conditions or procure District's written waiver of the condition or conditions:

A. Lessee shall prepare preliminary plans and specifications, including location plot plans of each structure or other construction, which shall be submitted to the

District for review and approval prior to commencement of the construction project, which approval shall not be unreasonably withheld. District shall diligently process Lessee's request for approval of plans for additional facilities, and make its best effort to provide a response within thirty (30) days after the plans have been submitted. A desired completion date of each structure shall be submitted with the plot plan. District shall consider the plans from the standpoint of safety and good construction practice.

B. Upon approval by the District of the preliminary plans and specifications, Lessee shall prepare final working plans and specifications and shall submit them concurrently to District and to the appropriate governmental agencies for approval. Changes from the preliminary plans shall be considered to be within the scope of the preliminary plans (a) if they are not substantial or if they are made to comply with suggestions, requests or requirements of a governmental agency or official in connection with the application for permit or approval, and (b) if they do not depart substantially in size, utility, or value from the improvements described in the plans and specifications heretofore submitted by Lessee to District.

C. The construction plans and specifications shall be prepared by an architect or engineer licensed to practice in California, including but not limited to preliminary grading and drainage plans, soil tests, utilities, sewer and service connections, locations of ingress and egress to and from public thoroughfares, curbs, gutters, parkways, street lighting, designs and locations for outdoor signs, storage areas, architecture and landscaping, all sufficient to enable potential contractors and subcontractors to make reasonably accurate bid estimates. All improvements shall be constructed within the exterior property lines of the Leased Premises; provided that required work beyond the Leased Premises on utilities, access, and conditional use requirements do not violate this provision. With the plans, Lessee shall deliver to District the certificate of the person who prepared the plans and specifications certifying that Lessee has fully paid for them or waiving payment and waiving any right to a Lien for preparing them and permitting District to use the plans without payment for purposes relevant to and consistent with this Lease.

D. Construction shall be done in strict compliance with the plans and specifications approved and shall not commence prior to such approval. Such construction shall be in compliance with all laws and ordinances, including the building codes of the governing jurisdiction. Lessee shall permit inspection of the construction at any reasonable time by the District and the Boating and Waterways Department of the State of California, or their agents.

E. Lessee shall coordinate with the appropriate governmental agencies throughout the approval process, and shall supply any input deemed necessary by the District through such governmental agencies. Lessee shall ensure that District receives concurrent copies of all correspondence, documents and drawings ("Papers") submitted by Lessee to the various

governmental agencies, and shall promptly deliver to District copies of all Papers received by Lessee from such governmental agencies. District acknowledges that final approval of the plans and specifications by the appropriate governmental agencies shall constitute its approval, as well. Lessee shall deliver to District one complete set of Plans and Specifications as approved by the governmental agencies. Lessee shall procure and deliver to District at Lessee's expense evidence of compliance with all then applicable codes, ordinances, regulations, and requirements for permits and approvals, including but not restricted to a grading permit, building permits, zoning and planning requirements, and approvals from various governmental agencies and bodies having jurisdiction.

F. Lessee shall submit a time schedule for completion of the construction of any additional facilities and shall diligently endeavor to adhere thereto. Lessee shall notify District of Lessee's intention to commence a work of improvement at least twenty (20) days before commencement of any such work or delivery of any materials in connection therewith. The notice shall specify the approximate location and nature of the intended improvements. District shall have the right to post and maintain on the Leased Premises any notices of non-responsibility provided for under applicable law, and to inspect the Land and the Leased Premises in relation to the construction at all reasonable times

G. Lessee shall furnish District with a true copy of Lessee's contract with the general contractor and with evidence of the general contractor's financial condition for District's approval. The contract shall give District the right but not the obligation to assume Lessee's obligations and rights under that contract if Lessee should default. District may disapprove by notice given within 15 business days following delivery of the copy of the contract. The notice shall specify the grounds for disapproval. District shall not unreasonably disapprove. If Lessee elects to act as general contractor, the reference above to contract and evidence shall be considered to apply to the subcontractor of each subcontract in excess of \$100,000.00.

H. Lessee shall deliver to District true copies of all documents to evidence the commitment of financing for any new construction. "Financing" includes both the construction (or interim) financing and the take-out (also called permanent or long-term) loan. District may require by notice that no construction commence until the take-out financing is firmly committed but may disapprove the financing only if it violates an express provision of this Lease.

I. Before commencement of any construction on the Leased Premises, Lessee shall obtain and furnish District with an executed copy of a bond in the amount of 100% of the construction cost estimate drawn by an admitted insurer satisfactory to District, providing that if Lessee, its contractor or any subcontractors fail to pay for any materials, provisions, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment

Insurance Act with respect to such work or labor, that the surety or sureties will pay for the same, in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the Court. The Bond shall run concurrently for the period of construction.

J. Lessee will deliver to District, "as built" plans, or drawings, within thirty (30) days of District's final approval of the construction or within thirty (30) days of the final approval of any other governmental agency that may be required, whichever is last to occur.

K. All buildings, improvements and fixtures, exclusive of trade fixtures, constructed or permanently affixed upon the Leased Premises by Lessee shall be kept free and clear of all liens and encumbrances (except those herein expressly permitted) and shall become the property of District upon expiration of this lease or sooner termination thereof. No such property shall become the property of District prior to termination of the Lease.

L. Lessee represents and warrants that all of the improvements constructed by Lessee shall be constructed in compliance with the current governing permitting agency and State of California standards and laws applicable to the construction of such improvements. District shall not have any responsibility for payment to any contractor or supplier of Lessee. Lessee understands that it may be subject to certain public contract requirements as provided by law, and to the extent that Lessee is subject to such requirements, Lessee shall comply with all such requirements.

7.2 Notwithstanding the terms and conditions provided in Section 7.1, Lessee shall not add or allow the placement by any other party of any additional improvements on the SLC Property without the prior express written consent of the SLC. Lessee shall remove or cause any such unauthorized improvement to be immediately removed in accordance with all appropriate legal and regulatory requirements. Except that Lessee is authorized to place a mobile home on the Leased Premises for the use of Lessee's onsite property manager.

**Section 8. Lessee's Inspection of Leased Premises.**

Lessee represents that Lessee has inspected the Leased Premises and accepts them in the present condition and is subject to any and all existing easements, or other encumbrances. The taking of possession of the Leased Premises by Lessee shall, in itself, constitute acknowledgement that the Leased Premises in its present existing condition is acceptable and that the District shall not be obligated to make any alterations, additions or betterments thereto.

**Section 9. Lessee's Obligations.**

Lessee shall, during the Term, at its own cost and expense and without any cost or expense to District, have the following obligations:

9.1 Maintenance of Leased Premises. Lessee, at Lessee's sole cost and expense, shall maintain the Leased Premises, including any improvements, structures or facilities thereon, in good order and repair during the term of this Lease, reasonable use and wear thereof and damage by Acts of God and force majeure excepted. Lessee shall have the full obligation of making all repairs and all reconstruction and restoration work of any kind whatsoever. District shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Leased Premises. If Lessee fails to keep the Leased Premises in good order and repair, District has the right, but not the obligation, to enter upon the Leased Premises to perform the needed maintenance or repair after District has provided written notice to Lessee. Lessee shall reimburse the District for all costs incurred by District in the event it exercises the right to maintain or repair.

9.2 Good Management. Lessee shall observe and obey, and compel its employees, agents, invitees, and those doing business with the Lessee to observe and obey, all applicable laws, ordinances, rules, and regulations of regulatory agencies and local governments that are now in effect or that may hereafter be promulgated with respect to the Leased Premises.

9.3 Cleanliness. Lessee agrees to keep the Leased Premises clear and free of all litter, garbage, and weeds, to keep the Leased Premises in an orderly and sanitary condition, and to maintain landscaping on the Leased Premises at all times.

9.4 Utilities. Lessee agrees to furnish at Lessee's expense and pay all charges for public utilities used by Lessee for the use and operations of the Leased Premises. Lessee agrees to provide ground lighting, refuse bins, removal and disposal of all rubbish, refuse and garbage, and water to the developed drought tolerant (native species) landscaping on the Leased Premises, if necessary and every part thereof, including all improvements placed by the Lessee.

9.5 Hazardous or Toxic Material and Environmental Impacts. It is the intent of the Parties to construe the term "Hazardous Substances" in its broadest sense. Hazardous Substance shall be defined as any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials, is either: (a) potentially injurious to the public health, safety or welfare, the environment or the Leased Premises; (b) regulated or monitored by any governmental authority; or (c) a basis for potential liability of District to any governmental agency or third party under any applicable statute or common law theory. Lessee shall not store or allow toxic or hazardous materials in areas that may affect the Leased Premises, except in quantities permitted by applicable law and in accordance with applicable law. If Lessee breaches the obligations stated herein, or if

contamination by toxic materials otherwise occurs for which Lessee has caused or is responsible for damage resulting there from, then Lessee shall indemnify, defend with counsel approved in writing by District, and hold District harmless from any and all claims, attorneys' fees, consultant fees, and expert witness fees that arise during or after the term of this Lease as a result of such contamination. This indemnification includes, without limitation, costs and penalties paid, if any, any cleanup, remediation, removal, or restoration work required by any federal, state, or local governmental entity because of toxic or hazardous materials being present in the soil or ground water and the presence of such materials in the soil or ground water is determined to be caused by the acts or omissions of the Lessee, licensees or guest. Lessee shall promptly take all actions at its sole cost and expense as are necessary to clean, remove and restore the Leased Premises to the condition prior to the introduction of such toxic or hazardous materials by Lessee, provided Lessee shall first have obtained District's approval and the approval of any necessary governmental entities.

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

9.7 Lessee agrees that it will not commit or permit waste upon the Leased Premises.

9.8 Lessee shall obtain prior written approval by District before Lessee may (A) erect, maintain, or display any signs or other forms of advertising, or (B) sell any items, food or otherwise, upon the Leased Premises. The District's approval shall not be unreasonably withheld.

9.9 Lessee shall secure, at its sole expense, all necessary permits and licenses at it may be required to obtain to perform any of the permitted uses provided hereunder this Lease or to occupy the Leased Premises

9.10 Lessee shall operate and manage the services and facilities offered in a manner fully satisfactory to District in the reasonable exercise of its discretion during the entire term of this Lease. Lessee shall furnish goods and services of the best quality and shall maintain a high standard of service.

A. The District shall have access to and the right to inspect the schedule of prices and rates for goods sold or services rendered or performed upon the Leased Premises. Lessee shall conspicuously display by suitable signs in appropriate locations, all prices and fees for all goods and services in such places and use of the facilities by the public. Lessee shall annually submit to District a price list of goods and fees for services available to the public and



provide, in writing, notice of any change in prices or fees within fourteen (14) days of such changes.

B. Lessee and the District shall from time to time review items sold and containers or utensils used or dispensed by Lessee and wherever feasible, eliminate the use of non-returnable containers, plastics, etc. The District reserves the right to prohibit the sale or use of non-recyclable containers or plastics.

9.11 Upon expiration or termination of this Lease, Lessee shall be required to comply with the following terms:

A. Removal of Fixtures. All trade fixtures, equipment and signs installed by the Lessee or its predecessor, and any sublessees or holders or owners of any concessions or licensee agreements shall be and remain the property of the Lessee, firm or corporation owning the same, and shall be removable at any time during the term of this lease, or within fifteen (15) days after expiration or sooner termination hereof, provided the Lessee is not then in default hereunder. The removal of such fixtures, equipment and signs shall be at the Lessee's expense and Lessee shall repair any damage or injury to the Leased Premises or any building, structure or improvement located thereon occasioned by the installation or removal thereof.

B. Surrender of Possession Upon Termination. Lessee covenants and agrees that upon the expiration or within fifteen (15) days of an earlier termination of this lease the Lessee will peaceably surrender the Leased Premises with all buildings and improvements, in good condition, reasonable use and wear thereof excepted, except for trade fixtures, equipment and signs that Lessee has the right to remove. Lessee shall remove all its personal property within the above stated time. Any improvements built, constructed or placed upon the Leased Premises by the Lessee, or anyone holding by, under or through it, shall remain on the Leased Premises and become the property of the District without any cost to District upon the termination of this lease, whether by lapse of time or by reason of default.

C. District can elect to retain or dispose of in any manner any trade fixtures, equipment, signs, or Lessee's personal property that Lessee does not remove from the Leased Premises on expiration or termination of the term as allowed by this lease, by giving at least a ten (10) day notice to Lessee. Title to such trade fixtures, signs and personal property that District elects to retain or dispose of on expiration of the ten (10) day period shall vest in District. Lessee waives all claims against District for any damage to Lessee resulting from District's retention or disposal of any such trade fixtures, equipment, signs and personal property pursuant to this provision.

**Section 10. Damage or Destruction.**

Lessee shall promptly make any and all repairs necessary as a result of damage or destruction of any of the improvements on the Leased Premises. No loss or damage by fire or other cause required to be insured against hereunder resulting in either partial or total destruction of anything, structure, or other improvement on the Leased Premises, shall operate to terminate this Lease, or to relieve or discharge Lessee from the payment of rents or amounts payable as rent as they become due and payable, or from the performance and observance of any of the agreements, covenants and conditions herein contained on the part of Lessee to be performed and observed. Lessee hereby waives the provisions of subsection 2 of section 1932 and subsection 4 of section 1933 of the California Civil Code, as amended from time to time.

**Section 11. Assignment and Subletting.**

11.1 Subject to the limitations in the SLC Lease PRC No. 9128.1 and except as otherwise expressly set forth in this Lease, Lessee shall not assign this Lease, or any interest herein, and shall not sublease the Leased Premises or any part thereof, or any right or privilege appurtenant thereof, without first obtaining the written consent of District and SLC, which consent will not be unreasonably withheld, provided the proposed assignee or sublessee is financially creditworthy and operationally experienced to perform the obligations of Lessee under this Lease, at any time provided that, (A) no default exists in the performance or observance of any agreement, covenant or condition of this Lease on the part of Lessee to be performed or observed as of the date of such assignment, (B) the assignment shall be in writing, duly executed and acknowledged by Lessee and the assignee, in form satisfactory to District, providing that the assignee assumes and agrees to perform and observe all the agreements, covenants and conditions of this Lease on the part of Lessee to be performed and observed, and (C) an executed original of such assignment shall be delivered to District for its prior consent and for submittal to SLC for its written consent for any proposed assignment concerning SLC Property. Any approved subleases shall provide that they shall be subject to and subordinate to this Lease and the SLC Lease PRC No. 9128.1.

11.2 Notwithstanding the forgoing provisions of Section 11.1 but still subject to the limitations or requirements of the SLC Lease PRC No. 9128.1, Lessee shall have the right to assign this Lease, without District's consent, to a general or limited partnership if (1) Lessee is a general partner and owns not less than fifty-one percent (51%) of the partnership, and (2) the partnership executes an agreement assuming Lessee's obligations. If fifty-one percent (51%) or more such partnership interest is transferred or sold, such sale shall require the prior written consent of the District.

11.3 Notwithstanding the forgoing provisions of Section 11.1 but still subject to the

limitations or requirements of the SLC Lease PRC No. 9128.1, Lessee shall have the right, without District's consent, to assign this lease to a corporation if the Lessee owns at least fifty-one percent (51%) of the outstanding capital stock of the corporation following the assignment and (2) the corporation executes an agreement assuming Lessee's obligations. If Lessee does assign this Lease to a corporation, then at the time that the corporation executes the agreement assuming Lessee's obligations, the corporation shall also deliver to District a duplicate original of a shareholder agreement, duly executed by all shareholders of such corporation, in which such shareholders agree that:

- A. They are all of the shareholders of such corporation.
- B. That they agree that any sale or transfer of fifty-one percent (51%) of the outstanding issued capital stock of such corporation shall require the prior written consent of the District, in addition to the consent or approval of California Corporations Commissioner in compliance with applicable laws.

11.4 Subject to the limitations or requirements of the SLC Lease PRC No. 9128.1, Lessee shall have the right, in the regular and ordinary course of its business of maintaining and operating the Leased Premises, to sublease, license, enter into a concession agreement or the like, over any portion thereof for any use permitted by this Lease; provided, however, that each such sublease shall be subject and subordinate to this Lease and the rights of District hereunder and shall not contain terms that are beyond those terms contained within this Lease and the SLC Lease PRC No. 9128.1 and consent from the SLC has been obtained.

## **Section 12. Insurance.**

Without limiting or diminishing the Lessee's obligation to indemnify or hold the District harmless, Lessee shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement.

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

12.2 **Commercial General Liability.** Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed

operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of Lessee's performance of its obligations hereunder. Policy shall name the District, its directors, officers, employees, elected or appointed officials, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

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

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

12.5 Property (Physical Damage). All-Risk real property insurance coverage, including earthquake and flood, if applicable, for the full replacement cost value of buildings, structures, fixtures, all improvements therein, and building systems on the Leased Premises as the same exists at each early anniversary of the term. Policy shall include Business Interruption, Extra Expense, and Expediting Expense coverage as well as coverage for off-premises power failure. Policy shall name the District as a Loss Payee as their interests may appear.

12.6 General Insurance Provisions - All lines.

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

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

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

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

E. If, during the term of this Lease or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or, the term of this Agreement, including any extensions thereof, exceeds five (5) years the District reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the District's Risk Manager's reasonable judgment, the amount or type of insurance carried by the Lessee has become inadequate.

F. Lessee shall pass down the insurance obligations contained herein to all tiers of subcontractors, sublessees or contractors working on the Lease Premises or under this Lease.

G. Lessee agrees to notify District immediately of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Lease.

**Section 13. Indemnification.**

Lessee shall indemnify and hold harmless the District, its Departments, its directors, officers, Board of Directors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any act or omission of Lessee, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to or in any way connected with or arising from its use and responsibilities in connection therewith of the Leased Premises or this Lease, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever. Lessee shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the District, its Departments, its directors, officers, Board of Directors, elected and appointed officials, employees, agents and representatives in any claim or action based upon such alleged acts or omissions.

13.1 With respect to any action or claim subject to indemnification herein by Lessee, Lessee shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of District; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Lessee's indemnification to District as set forth herein.

13.2 Lessee's obligation hereunder shall be satisfied when Lessee has provided to District the appropriate form of dismissal relieving District from any liability for the action or claim involved.

13.3 The specified insurance limits required in this Lease shall in no way limit or circumscribe Lessee's obligations to indemnify and hold harmless the District herein from third party claims.

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

**Section 14. Mechanics' and Other Liens.**

Lessee shall not encumber, create a lien, mortgage or otherwise encumber the Leased Premises. Lessee shall pay all costs of any alterations or additions to any building, structure or improvement located on the Leased Premises, done or cause to be done by Lessee, and shall keep the Leased Premises and the improvements located thereon free and clear of any and all claims arising out of the performance of work or furnishing materials. Lessee shall promptly discharge or remove by bond or otherwise prior to foreclosure thereof, any and all mechanics', materialmen's and other liens for work or labor done, services performed, materials, appliances, teams or power contributed, used or furnished to be used in or about the Leased Premises for or in connection with any operations of Lessee, any alterations, improvements, repairs or additions which Lessee may make or permit or cause to be made, or any work or construction by, for or permitted by Lessee on or about the Leased Premises, and to save and hold District and all of the Leased Premises and all buildings and improvements thereon free and harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto.

**Section 15. Eminent Domain.**

15.1 If the whole of the Leased Premises should be taken by any public or quasi-public authority under the power or threat of eminent domain during the Term, or if a substantial portion of the Leased Premises should be taken so as to materially impair the use of the Leased Premises contemplated by Lessee, and thereby frustrate Lessee's purpose in entering into this Lease, then, in either of such events, this Lease shall terminate at the time of such taking.

15.2 If less than the whole of the Leased Premises should be taken by any public or quasi-public authority under the power or threat of eminent domain during the Term and this Lease is not terminated as provided in subsection (a) above, Lessee shall promptly reconstruct and restore the Leased Premises, with respect to the portion of the Leased Premises not so taken, as an integral unit of the same quality and character as existed prior to such taking. The Minimum Rent payable by Lessee following such taking shall be equitably reduced by agreement of District and Lessee.

15.3 Award. If the Leased Premises are wholly or partially condemned, District will be entitled to the entire award paid for the condemnation, and Lessee waives any claim to any part of the award from District or the condemning authority. Lessee, however, will have the right to recover from the condemning authority any compensation that may be separately awarded to Lessee for the following:

A. A sum attributable to Lessee's improvements or alterations made to the premises by Lessee in accordance with this lease which are the property of the Lessee under the terms of this lease, and all those trade fixtures, equipment and signs installed by Lessee which

Lessee has the right to remove from the premises pursuant to the provisions of this lease but elects not to remove; or, if Lessee elects to remove any such Lessee's improvements, alterations, trade fixtures, equipment or signs, a sum for reasonable removal and relocation costs not to exceed the market value of such improvements, alterations, trade fixtures, equipment and signs.

B. A sum attributable to the market value of the lease for the remainder of the term, less the percentage rent payable for the remainder of the term. For the purposes of this provision, the "percentage rent payable for the remainder of the lease term" shall be determined by applying the average percentage rent (paid yearly) for the portion of the lease term which has expired.

C. A sum attributable to that portion of the award constituting severance damages for the restoration of the premises.

D. A sum paid to Lessee from the condemner for loss of good will

15.4 Temporary Condemnation. In the event of a temporary condemnation, this Lease will remain in effect, Lessee will continue to pay Rent, and Lessee will receive any award made for the temporary condemnation. The taking of the Leased Premises or any part of the premises by military or other public authority (excluding District, its agencies and districts now in existence or which may be created in the future) shall constitute a taking of the premises by condemnation only when the use and occupancy of the taking authority has continued for longer than 180 consecutive days. During the 180 day period all the provisions of this Lease shall remain in full force and effect, except that rent (except for any percentage rent) shall be abated or reduced during such period of taking based on the extent to which the taking interferes with Lessee's use of the premises, and Lessee shall be entitled to whatever award may be paid for the use and occupation of the premises for the period involved. If a temporary condemnation remains in effect at the expiration or earlier termination of this Lease, Lessee will pay District the reasonable cost of performing any obligations required of Lessee with respect to the surrender of the Leased Premises. If a temporary condemnation is for a period that extends beyond the Term, this Lease will terminate as of the date of occupancy by the condemning authority and any award will be distributed in accordance with Section 15.3.

**Section 16. Estoppel Certificates/Subordination, Non-Disturbance, and Attornment.**

16.1 Estoppel Certificates. Within twenty (20) business days after receipt of a written request by either party, the other party shall execute and deliver to the requesting party an Estoppel Certificate, substantially in the form of Exhibit "D" respectively, attached hereto and by this reference incorporated herein, indicating in the certificate any exceptions to the statements in the certificate that may exist at that time.



16.2 Subordination, Non-Disturbance, and Attornment. To carry out the purposes of Subsections 16.2 A. and B., subject to the limitations in the SLC Lease PRC No. 9128.1, the Parties agree to execute a Subordination, Non-Disturbance and Attornment Agreement and seek any requisite consents by the SLC, in the form acceptable by the parties.

A. Subordination. District agrees that within forty-five (45) business days after Lessee's written request and obtaining any requisite consents and approvals by the SLC or the District's Board of Directors, it shall execute the agreement referred to in Section 16.2 that may be reasonably necessary to evidence or confirm the subordination or inferiority of this Lease to the lien of any mortgage, deed of trust or other encumbrance of the leasehold interest in the Leased Premises or any renewal, extension, modification, replacement thereof, provided however, that such Subordination Agreement shall be strictly limited to matters contained in the Agreement referred to in Section 16.2 and no such Subordination Agreement shall materially increase any of District's obligations or materially decrease any of District's rights under this Lease.

B. Attornment. If Lessee's interest in the Leased Premises passes to a successor, and provided District has received the Non-Disturbance agreement referred to in Section 16.2, District shall, within forty-five (45) business days after Lessee's transferee's request and obtaining any requisite consents and approvals by the SLC or the District's Board of Directors, execute the agreement referred to in Section 16.2, thereby agreeing to attorn and to recognize the transferee as the Lessee under this Lease; provided the transfer of Lessee's interest in the Leased Premises was by a form of transfer acceptable to the District and District has not exercised any rights and remedies under this Lease that may operate to terminate this Lease.

## **Section 17. Defaults and Remedies.**

17.1 Lessee's Defaults and District's Remedies. It shall be an event of default hereunder (each an "Event of Default") if any of the following occurs:

A. Lessee fails to make any and all rental payments or other moneys due hereunder when due and shall failure continue for a period of ten (10) days after written notice thereof to Lessee;

B. Lessee failed to perform or observe any of the other terms, covenants or conditions of this Lease on the part of Lessee to be performed and observed and such default shall continue for a period of thirty (30) days after written notice thereof to Lessee, or, in the case of a default which cannot be cured by the payment of money and cannot be cured within thirty (30) days, shall continue for an unreasonable period after such written notice;

C. Lessee has abandoned the Leased Premises;

D. Lessee shall admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation under any law or statute of the federal government or any state government or any subdivision of either now or hereafter in effect, make an assignment for the benefit of its creditors, consent to, or acquiesce in the appointment of a receiver of itself or of the whole or any substantial part of the Leased Premises;

E. A court of competent jurisdiction shall enter an order, judgment or decree appointing a receiver of Lessee or of the whole or any substantial part of the Leased Premises, and such order, judgment or decree shall not be vacated, set aside or stayed within sixty (60) days from the date of entry of such order, judgment or decree, or a stay thereof be thereafter set aside;

F. A court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Lessee under any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation law or statute of the Federal government or any state government or any subdivision of either now or hereafter in effect, and such order judgment or decree shall not be vacated, set aside or stayed within sixty (60) days from the date of entry of such order, judgment or decree, or a stay thereof be thereafter set aside; or

G. Under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of Lessee or of the whole or any substantial part of the Leased Premises, and such custody or control shall not be terminated within sixty (60) days from the date of assumption of such custody or control.

17.2 Upon the occurrence of any Event of Default by Lessee hereunder, District shall have the following rights and remedies, in addition to all other rights and remedies of District provided hereunder or by law: District shall have the right to terminate this Lease, in which event Lessee shall immediately surrender possession of the Leased Premises and pay to District all rent and all other amounts payable by Lessee hereunder to the date of such termination. The remedies of the District if the Lessee commits a default, are not exclusive as they are set forth above; but rather they are cumulative in addition to any remedies now or later allowed by law

17.3 District's Default and Lessee's Remedies. Lessee shall have the right to terminate this Lease in the event District fails to perform, keep or observe any of its duties or obligations hereunder; provided, however, that Lessee provided written notice and District shall have thirty (30) days opportunity to cure. In the event that District fails to cure the default, Lessee shall serve a thirty (30) notice on District of its election to terminate said Lease.

**Section 18. District's Right of Inspection and Reserved Rights.**

District may, at any reasonable time and from time to time during the Term, enter upon the Leased Premises for the purpose of inspecting the Leased Premises and for such other purposes as may be necessary or proper for the reasonable protection of its interests. The District reserves the right for itself, of ingress and egress to inspect, investigate and survey the Leased Premises as deemed necessary by the District, and the right to do any and all work of any nature necessary for preservation, maintenance and operation of the Leased Premises. Lessee shall be given reasonable notice when such work may become necessary and will adjust its operations in such a manner that the District may proceed expeditiously.

**Section 19. Non-waiver.**

If any action or proceeding is instituted or if any other steps are taken by District or Lessee, and a compromise part payment or settlement thereof shall be made, either before or after judgment, the same shall not constitute or operate as a waiver by District or Lessee of any agreement, covenant or condition of this Lease or of any subsequent breach thereof. No waiver of any default under this Lease shall constitute or operate as a waiver of any subsequent default hereunder, and no delay, failure or omission in exercising or enforcing any right, privilege, or option under this Lease shall constitute a waiver, abandonment or relinquishment thereof or prohibit or prevent any election under or enforcement or exercise of any right, privilege, or option hereunder. No waiver of any provision hereof by District or Lessee shall be deemed to have been made unless and until such waiver shall have been reduced to writing and signed by District or Lessee, as the case may be. The receipt by District of rent with knowledge of any default under this Lease shall not constitute or operate as a waiver of such default. Payment by Lessee or receipt by District of a lesser amount than the stipulated rent or other sums due District shall operate only as a payment on account of such rent or other sums. No endorsement or statement on any check or other remittance or in any communication accompanying or relating to such payment shall operate as a compromise or accord and satisfaction unless the same is approved in writing by District, and District may accept such check, remittance or payment without prejudice to its right to recover the balance of any rent or other sums due by Lessee and pursue any remedy provided under this Lease or by law.

**Section 20. Notices.**

Except as otherwise provided hereunder; any notice or communication to District or Lessee shall be in writing and be mailed by certified mail, postage prepaid. Notices or communications shall be addressed to the respective parties as set forth below:

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DISTRICT  
Riverside County Regional  
Park & Open-Space District  
4600 Crestmore Road  
Riverside, CA 92509

LESSEE  
Reynolds Resorts-Blythe, LLC  
32392 South Coast Hwy, Suite 170  
Laguna Beach, CA 92651

or such other address or addresses as the parties shall from time to time designate, or to such agent of respective parties as may from time to time be designated, by notice in writing to the other party. Any notice mailed in the manner above set forth shall be deemed to have been received unless returned to the sender by the post office.

**Section 21. No Partnership.**

It is expressly understood and agreed that District does not, in any way or for any purpose by executing this Lease, become a partner of Lessee in the conduct of Lessee's business, or otherwise, or a joint venturer or a member of a joint enterprise with Lessee.

**Section 22. Employees and Agents of Lessee.**

It is understood and agreed that all persons hired or engaged by Lessee shall be considered to be employees, representatives or agents of Lessee and not of District.

**Section 23. Severability.**

In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Lease, but this Lease shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

**Section 24. Time of the Essence.**

Time is of the essence of each and all of the agreements, covenants, and conditions of this Lease.

**Section 25. Integration.**

This instrument constitutes the entire agreement between District and Lessee with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral or written. This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing signed by District and Lessee.

**Section 26. Binding on Successors.**

Lessee, its assigns and successors in interest, shall be bound by all the terms and conditions contained in this Lease, and all of the parties thereto shall be jointly and severally liable hereunder.

**Section 27. Governing Law and Venue.**

This Lease shall be governed by and construed in accordance with the laws of the State of California. Any action at law or in equity brought by either party hereto for the purpose of enforcing a right or rights provided for by this Lease shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

**Section 28. Paragraph Headings.**

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

**Section 29. Construction of Lease Agreement.**

This Lease and each of the provisions hereof, has been reached as the result of the negotiations and mutual assent by the Parties. Each of the Parties hereto expressly acknowledges and agrees that this Lease shall not be deemed to have been prepared by, or drafted by, any particular Party or Parties, and that any rules of construction to the effect that any ambiguities are to be resolved against the drafting Party or Parties shall not be applied or employed in the interpretation of this Lease.

**Section 30. District's Representative.**

District hereby appoints the General Manager, or designee, as its authorized representative to administer this Lease.

**Section 31. Authority.**

If Lessee is a corporation, general or limited partnership or individual owner, each individual executing this Lease on behalf of said corporation, partnership, or individual represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with bylaws of said corporation, or as a partner or individual is

authorized to execute this Lease and that this Lease is binding upon said corporation and/or partnership or individual.

**Section 32. Counterparts.**

This Lease may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

**Section 33. Assignment.**

Lessee cannot assign, sublet, mortgage, hypothecate or otherwise transfer in any manner any of its leasehold interest, rights, duties or obligations hereunder to any person or entity without the written consent of District being first obtained, which consent shall be in the discretion of District. In the event of any such transfer, as provided in this Paragraph, Lessee expressly understands and agrees that it shall remain liable with respect to any and all of the obligations and duties contained in this Lease. The District's consent shall not be unreasonably withheld.

**Section 34. Agent for Service of Process.**

It is expressly understood and agreed that in the event Lessee is not a resident of the State of California or it is an association or partnership without a member or partner resident of the State of California, or it is a foreign corporation, then in any such event, Lessee shall file with District's General Manager, upon its execution hereof, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of services of process in any court action arising out of or based upon this Lease, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon Lessee. It is further expressly understood and agreed that if for any reason service of such process upon such agent is not feasible, then, in such event, Lessee may be personally served with such process out of this County of Riverside and that such service shall constitute valid service upon Lessee. It is further expressly understood and agreed that Lessee is amenable to the process so served, submits to the jurisdiction of the court so obtained and waives any and all objections and protests thereto.

**Section 35. Recordation of Memorandum of Lease.**

This Lease shall not be recorded. A memorandum of this Lease may be recorded. The parties shall execute the memorandum substantially to form in Exhibit "E", attached hereto and by this reference incorporated herein, and sufficient to give constructive notice of this Lease to subsequent purchasers and lenders.

**Section 36. Entire Lease Agreement.**

There are no oral agreements between District and Lessee affecting this Lease, and this Lease supersedes and cancels all previous negotiations, arrangements, brochures, agreements, and understandings between District and Lessee with respect to the subject matter of this Lease. There are no representations between District and Lessee other than those contained in this Lease. This Lease shall not be binding or consummated until its approval and execution by both parties to this Lease.

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Signature Provisions on Following Page

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

DISTRICT:  
RIVERSIDE COUNTY REGIONAL  
PARK & OPEN-SPACE DISTRICT

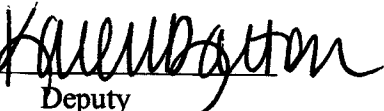
By:   
Kevin Jeffries  
Chairman of the Board of Directors

LESSEE:  
REYNOLDS RESORTS-BLYTHE,  
LLC

By:   
Name: Thomas Reynolds  
Its: MANAGER

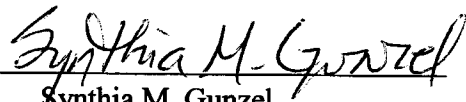
By:   
Name: Christine Johnson  
Its:

ATTEST:  
Clerk of the Board  
Kecia Harper-Ihem

By:   
Deputy

(Seal)

APPROVED AS TO FORM:  
County Counsel  
Gregory P. Priamos

By:   
Cynthia M. Gunzel  
Deputy County Counsel



Final 10/14/14

**EXHIBIT A**

**LEGAL DESCRIPTION OF DISTRICT PROPERTY**

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 1**

THAT PORTION OF PARCEL 2 PER QUITCLAIM DEED RECORDED AS INSTRUMENT NO. 430266, RECORDED OCTOBER 5 1998, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, BEING A PORTION OF THE ACCRETION LANDS LYING SOUTHERLY AND SOUTHEASTERLY OF GOVERNMENT LOT 1 IN FRACTIONAL SECTION 35 AND GOVERNMENT LOT 6 IN FRACTIONAL SECTION 36, BOTH IN TOWNSHIP 6 SOUTH, RANGE 23 EAST, SAN BERNARDINO BASE AND MERIDIAN, LYING SOUTH OF THE SOUTH LINE OF SECTION 35 AND SOUTH OF THE SOUTH LINE AND ITS EASTERLY PROLONGATION, OF SECTION 36, AS SHOWN BY MAP ON FILE IN BOOK 9, PAGE 18 OF RECORD OF SURVEYS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHWEST CORNER OF SECTION 36 AS SHOWN ON SAID MAP ON FILE IN BOOK 9, PAGE 18 OF RECORD OF SURVEYS;

THENCE NORTH 89°02'41" EAST ALONG THE SOUTH LINE OF SAID SECTION 36, AND ITS EASTERLY PROLONGATION, A DISTANCE OF 1,119.20 FEET;

THENCE SOUTH 43°15'26" WEST, A DISTANCE OF 952.45 FEET;

THENCE NORTH 70°50'39" WEST, A DISTANCE OF 830.00 FEET;

THENCE NORTH 32°42'52" EAST, A DISTANCE OF 476.84 FEET TO THE SOUTH LINE OF SAID SECTION 35;

THENCE NORTH 88°37'52" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 60.00 FEET TO THE **POINT OF BEGINNING**;

EXCEPTING THEREFROM;

A PORTION OF STATE OWNED SOVEREIGN LAND SITUATE IN THE HISTORIC CHANNEL OF THE COLORADO RIVER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHWEST CORNER OF SECTION 36 AS SHOWN ON SAID MAP ON FILE IN BOOK 9, PAGE 18 OF RECORD OF SURVEYS;

THENCE NORTH 89°02'41" EAST ALONG SAID SOUTH LINE OF SECTION 36, AND ITS EASTERLY PROLONGATION, A DISTANCE OF 405.46 FEET TO THE HISTORIC CENTER LINE OF SAID HISTORIC CHANNEL;

THENCE ALONG SAID HISTORIC CENTER LINE SOUTH 62°09'54" WEST, A DISTANCE OF 644.75 FEET;

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 1 CONTINUED:**

THENCE SOUTH 62°54'10" WEST, A DISTANCE OF 139.48 FEET TO A POINT ON THE WESTERLY LINE OF SAID PARCEL 2;

THENCE NORTH 32°42'52" EAST ALONG SAID WESTERLY LINE, A DISTANCE OF 423.59 FEET TO THE NORTH LINE OF SECTION 2, TOWNSHIP 7 SOUTH, RANGE 23 EAST, SAN BERNARDINO MERIDIAN;

THENCE NORTH 88°37'52" EAST ALONG SAID NORTH LINE OF SECTION 2, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING.

**PARCEL 2**

THOSE PORTIONS OF PARCEL 4 PER QUITCLAIM DEED RECORDED AS INSTRUMENT NO. 430266, RECORDED OCTOBER 5 1998, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, BEING A PORTION OF GOVERNMENT LOT 6 IN FRACTIONAL SECTION 36, TOWNSHIP 6 SOUTH, RANGE 23 EAST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY, APPROVED DECEMBER 28, 1874, TOGETHER WITH A PORTION OF THE ACCRETION LANDS LYING SOUTHERLY OF SAID GOVERNMENT LOT 6, DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 6, AS IT EXISTED DECEMBER 28, 1874;

THENCE NORTH 01°53'08" WEST ALONG THE WEST LINE OF SAID GOVERNMENT LOT 6, A DISTANCE OF 38.18 FEET TO A POINT ON THE SOUTHERLY LINE OF THE RIGHT OF WAY OF CALIFORNIA STATE HIGHWAY ROUTE 64 (U.S. NO. 60), AS PER CALIFORNIA STATE HIGHWAY RIGHT OF WAY MAP XI-RIV-64-F, COLORADO RIVER BRIDGE PLANS;

THENCE SOUTH 70°31'19" EAST ALONG SAID SOUTHERLY LINE, A DISTANCE OF 1.88 FEET;

THENCE EASTERLY ALONG SAID SOUTHERLY LINE AND ALONG THE ARC OF A CURVE TANGENT TO SAID LAST DESCRIBED COURSE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 10,200 FEET, THROUGH A CENTRAL ANGLE OF 04°17'10", FOR A DISTANCE OF 763.03 FEET;

THENCE SOUTH 74°48'29" EAST TANGENT TO SAID LAST DESCRIBED COURSE AND ALONG SAID SOUTHERLY LINE, A DISTANCE OF 596.30 FEET;

THENCE SOUTH 43°15'26" WEST, A DISTANCE OF 243.97 FEET TO THE EASTERLY PROLONGATION OF THE SOUTH LINE OF SECTION 36 AS SHOWN BY MAP ON FILE IN BOOK 9, PAGE 18 OF RECORD OF SURVEYS, RECORDS OF RIVERSIDE, COUNTY, CALIFORNIA;

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 2 CONTINUED:**

THENCE SOUTH 89°02'41" WEST, ALONG SAID EASTERLY PROLONGATION OF THE SOUTH LINE, AND ALONG SAID SOUTH LINE, A DISTANCE OF 1,119.20 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 36, AS SHOWN BY SAID MAP FILED IN BOOK 9, PAGE 118 OF RECORD OF SURVEYS;

THENCE NORTH 01°53'08" WEST ALONG THE WEST LINE OF SECTION 36, AS SHOWN BY SAID LAST DESCRIBED MAP, A DISTANCE OF 542.93 FEET TO THE **POINT OF BEGINNING**.

**EXCEPTING THEREFROM:**

A PORTION OF STATE OWNED SOVEREIGN LAND SITUATE IN THE HISTORIC CHANNEL OF THE COLORADO RIVER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHWEST CORNER OF SECTION 36 AS SHOWN ON SAID MAP ON FILE IN BOOK 9, PAGE 18 OF RECORD OF SURVEYS;

THENCE NORTH 01°53'08" WEST, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 36, A DISTANCE OF 200.32 FEET TO A POINT ON THE RIGHT BANK OF THE HISTORIC CHANNEL OF SAID RIVER;

THENCE NORTH 64°14'00" EAST, ALONG SAID RIGHT BANK A DISTANCE OF 516.70 FEET, TO A POINT ON THE SOUTHERLY LINE OF SAID RIGHT OF WAY OF CALIFORNIA STATE HIGHWAY ROUTE 64 (U.S. NO. 60) AS PER CALIFORNIA STATE HIGHWAY RIGHT OF WAY MAP XI-RIV-64-F, COLORADO RIVER BRIDGE PLANS, ALSO BEING A POINT ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 10,200.00 FEET, A RADIAL LINE OF SAID CURVE AT SAID POINT BEARS NORTH 16°39'54" EAST;

THENCE ALONG SAID SOUTHERLY LINE AND CURVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 01°28'22" FOR AN ARC DISTANCE OF 262.20 FEET;

THENCE CONTINUING ALONG SAID SOUTHERLY LINE SOUTH 74°48'28" EAST, A DISTANCE OF 234.35 FEET TO A POINT ON THE HISTORIC CENTERLINE OF SAID HISTORIC CHANNEL;

THENCE ALONG SAID CENTERLINE SOUTH 60°15'36" WEST, A DISTANCE OF 106.32 FEET;

EXHIBIT "A"  
LEGAL DESCRIPTION

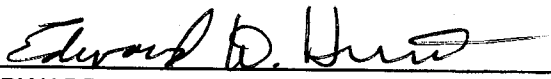
**PARCEL 2 CONTINUED:**

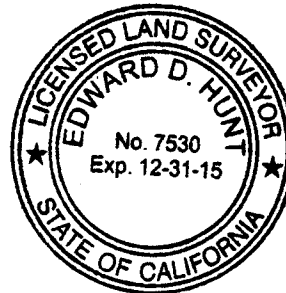
THENCE SOUTH 62°09'54" WEST, A DISTANCE OF 496.77 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 36;

THENCE SOUTH 89°02'41" WEST, ALONG SAID SOUTH LINE OF SECTION 36, A DISTANCE OF 405.45 FEET TO THE POINT OF BEGINNING.

THE BASIS OF BEARINGS BEING SOUTH 74°49'58" WEST, 1,584.46 FEET FROM NGS MONUMENT "EHREN" (PID DW1289) HAVING CCS 83 ZONE 6 (EPOCH 1992) PUBLISHED COORDINATES OF NORTHING (Y)=2168030.63 FEET AND EASTING (X)=7085080.13 FEET, TO THE SOUTHWEST CORNER OF SAID SECTION 36 HAVING CCS 83 ZONE 6 (EPOCH 1992) COORDINATES OF NORTHING (Y)=2167616.07 FEET AND EASTING (X)=7083550.86 FEET. ALL BEARINGS PER SAID QUITCLAIM DEED RECORDED AS INSTRUMENT NO. 430266, HAVE BEEN ROTATED TO FIT DESCRIPTION PREPARED 05/15/14 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT (PRC 9128.1).

PREPARED BY OR UNDER THE DIRECTION OF:

  
EDWARD D. HUNT P.L.S. 7530  
EXPIRES 12-31-2015



Final 10/14/14

**EXHIBIT B**

**STATE LANDS COMMISSION LEASE P.R.C. NO. 9128.1  
AND LEGAL DESCRIPTION AND DEPICTION OF SLC PROPERTY**

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED MAIL TO:  
STATE OF CALIFORNIA  
California State Lands Commission  
Attn: Title Unit  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

STATE OF CALIFORNIA  
OFFICIAL BUSINESS  
Document entitled to free recordation  
pursuant to Government Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P.N. 833-290-06 and 869-230-12  
County: Riverside

**LEASE NO. PRC 9128.1**

This Lease consists of this summary and the following attached and incorporated parts:

Section 1	Basic Provisions
Section 2	Special Provisions Amending or Supplementing Section 1 or 3
Section 3	General Provisions
Exhibit A	Land Description
Exhibit B	Site and Location Map

**SECTION 1**

**BASIC PROVISIONS**

**THE STATE OF CALIFORNIA**, hereinafter referred to as Lessor acting by and through the **CALIFORNIA STATE LANDS COMMISSION** (100 Howe Avenue, Suite 100-South, Sacramento, California 95825-8202), pursuant to Division 6 of the Public Resources Code and Title 2, Division 3 of the California Code of Regulations, and for consideration specified in this Lease, does hereby lease, demise, and let to **RIVERSIDE COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT**, hereinafter referred to as Lessee, those certain lands described in Exhibit A hereinafter referred to as Lease Premises, subject to the reservations, terms, covenants, and conditions of this Lease.

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**MAILING ADDRESS:** 4600 Crestmore Road  
Jurupa Valley, CA 92509

**LEASE TYPE:** General Lease – Public Agency Use

**LAND TYPE:** Sovereign

**LOCATION:** Historic bed of the Colorado River, city of Blythe, Riverside County, as described in Exhibit A attached and by this reference made a part hereof.

**LAND USE OR PURPOSE:** Use and maintenance of a recreational vehicle campground.

**TERM:**

**LEASE:** 30 years; beginning July 1, 2014; ending June 30, 2044, unless sooner terminated as provided under this Lease.

**SUBLESSEE:** For the remaining term ending June 30, 2014, and three consecutive 5 year extensions; the first beginning July 1, 2014, ending June 30, 2019, the second beginning July 1, 2019, ending June 30, 2024, and the last beginning July 1, 2024, ending June 30, 2029.

**CONSIDERATION:**

Annual Rent in the amount of \$6,288 for the period from July 1, 2014, to June 30, 2015; with the State adjusting the Annual Rent for each subsequent year by the application of the annual percentage change of the Consumer Price Index (CPI), provided that the adjusted Annual Rent will never be lower than \$6,288, and further providing that the State shall have the right to adjust the Annual Rent upon any amendment of the sublease between Lessee and Sublessee, with the first rent review occurring no later than two years from July 1, 2014. CPI adjustments will continue annually until each fifth anniversary of the Lease, when a new Annual Rent may be established by Lessor as specified in Paragraph 3(b) of Section 3, General Provisions.

**AUTHORIZED IMPROVEMENTS:**

X **EXISTING:** Recreational vehicle campground.

N/A **TO BE CONSTRUCTED:**

**CONSTRUCTION MUST BEGIN BY:** N/A

**AND BE COMPLETED BY:** N/A

**LIABILITY INSURANCE:**



LESSEE: N/A

SUBLESSEE: \$100,000

**SURETY BOND OR OTHER SECURITY:**

LESSEE: N/A

SUBLESSEE: N/A

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**SECTION 2  
SPECIAL PROVISIONS**

**BEFORE THE EXECUTION OF THIS LEASE, ITS PROVISIONS ARE AMENDED,  
REVISED, OR SUPPLEMENTED AS FOLLOWS:**

1. Lessee and Lessor shall execute, and Lessor shall record a memorandum of this lease in the official records of Riverside County.
2. Lessee shall not add or allow the placement by any other party of any additional improvements on the lease premises without the prior express written consent of Lessor. Lessee shall remove or cause any such unauthorized improvement to be immediately removed in accordance with all appropriate legal and regulatory requirements.
3. Pursuant to Section 3, paragraph 11 of this Lease, Lessor hereby consents and approves to the use and the subletting of the Lease Premises for the use and maintenance of the recreational vehicle campground to Reynolds Resorts – Blythe, LLC hereinafter referred to as "sublease" for the remaining term ending June 30, 2014, and three consecutive 5 year extensions; the first beginning July 1, 2014, ending June 30, 2019, the second beginning July 1, 2019, ending June 30, 2024, and the last beginning July 1, 2024, ending June 30, 2029.
4. Upon any amendment to the sublease, Lessee shall submit to Lessor a copy of such agreements 30 days prior to its execution by the parties for Lessor's review. Lessor shall have the right to adjust the Annual Rent upon any amendment of the sublease, with the first rent review occurring no later than two years from July 1, 2014.
5. Any renewal or extension of the sublease term will require approval by the Lessor pursuant to Section 3, paragraph 11 of this Lease.
6. Sublease term, renewal or extension may not extend beyond the term of this lease.
7. Non-conforming Uses by Sublessee: Subleasing activities shall be in compliance with the terms and conditions of Section 1, Authorized Activities, of this Lease. If any sublessee uses the Lease Premises for any purpose not specifically authorized in this Lease, such non-conforming use shall be considered a default of the Lease and entitle Lessor to pursue its remedies as described in Section 3, paragraph 12(d).

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## SECTION 3

### GENERAL PROVISIONS

#### 1. GENERAL

In the case of any conflict between these General Provisions and Special Provisions found in Section 2, the Special Provisions control.

#### 2. DEFINITIONS

For the purposes of this Lease, the following terms shall be defined as stated below:

"Additions" shall be defined as any use or Improvements other than those expressly authorized in this Lease.

"Alterations" shall be defined as any material change in the size, scope, density, type, nature, or intensity of Improvements on the Lease Premises from what is authorized in this Lease. Alterations shall also include any modifications, alterations, or renovations of the land or waterways on the Lease Premises other than those authorized by this Lease.

"Breach" shall be defined as a party's unjustified or unexcused nonperformance of a contractual duty the party is required to immediately perform.

"Damages" shall include all liabilities, demands, claims, actions or causes of action whether regulatory, legislative or judicial in nature; all assessments, levies, losses, fines, penalties, damages, costs and expenses, including, without limitation: (i) reasonable attorneys', accountants', investigators', and experts' fees and expenses sustained or incurred in connection with the defense or investigation of any such liability, and (ii) costs and expenses incurred to bring the Lease Premises into compliance with Environmental Laws, a court order, or applicable provisions of a Regulatory Agency. The term "Damages" also includes, expressly, those Damages that arise as a result of strict liability, whether arising under Environmental Laws or otherwise.

"Default" shall be defined as a material Breach of magnitude sufficient to justify termination of the Lease.

"Environmental Law" shall be defined as and include all federal, state, and local environmental, health, and safety laws, statutes, ordinances, regulations, rules, judgments, orders, and notice requirements, which were in effect as of the date of execution of this Lease or are subsequently enacted and lawfully applied hereto, which regulate or relate to (a) the protection or clean-up of the environment; (b) the use, treatment, storage, transportation, handling or disposal of hazardous, toxic or otherwise dangerous substances, wastes or materials; (c) the quality of the air and the discharge of airborne wastes, gases, particles, or other emissions; (d) the preservation or protection of waterways, groundwater, or drinking water; (e) the health and safety of persons or property; or (f) impose liability with respect to any of the foregoing, including without limitation, the California Environmental Quality Act (CEQA) [PRC §§ 21000 et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 USCS §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) [42 USCS §§ 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) [33 USCS §§ 1251 et seq.]; the Toxic Substances Control Act (TSCA) [15 USCS §§ 2601 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 USCS §§ 1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act [7 USCS §§ 136 et seq.]; the Superfund Amendments and Reauthorization Act [42 USCS §§ 6901 et seq.]; the Clean Air Act [42 USCS §§ 7401 et seq.]; the Safe Drinking Water Act [42 USCS §§ 300f et seq.]; the Solid Waste Disposal Act [42 USCS §§ 6901 et seq.]; the Surface Mining Control and Reclamation Act [30 USCS §§ 1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 USCS §§ 11001 et seq.]; the Occupational Safety and Health Act [29 USCS §§ 655 and 657]; the California Underground Storage of Hazardous Substances Act [H & S C §§ 25280 et seq.]; the California Hazardous Substances Account Act [H & S C §§ 25300 et seq.]; the California Hazardous Waste Control Act [H & S C §§ 25100 et seq.]; the California Safe Drinking Water and Toxic Enforcement Act [H & S C §§ 24249.5 et seq.]; the Porter-Cologne Water Quality Act [Water C §§ 13000 et seq.] together with any amendments of or regulations promulgated under the statutes cited above.

"Hazardous Material" shall be defined as and include any substance which falls within the definition of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste, pollutant, or contaminant, under any Environmental Law.

"Improvements" shall be defined as any modification, alteration, addition, or removal of any material, and any other action which serves to change the condition of the Lease Premises from the natural state whether situated above, on, or under the Lease Premises. Improvements include, but are not limited to buildings, structures, facilities, decks, docks, wharves, piers, walks, curbs, bridges, buoys, landscaping, roadways, shoreline protective structures of all types, foundations, pilings or similar support structures whether above or below the water line, fences, utilities, pipelines, and any other construction of any type situated on the Lease Premises.

"Lease" shall be defined as this lease contract together with all amendments and exhibits.

"Lease Premises" shall be defined as the area of land, together with any improvements located thereon, the use and occupancy of which is authorized by this Lease.

"Lessor" shall be defined as the state of California, acting by and through the California State Lands Commission, including the Commissioners, their alternates and designates, the Executive Officer, and the staff of the California State Lands Commission.

"Regulatory Agency" shall include any Federal, State, County, Municipal, or Local agency having jurisdiction over the Lease Premises.

"Repairs" shall be defined as all work of any kind made to maintain, change, restore, strengthen, replace, alter, or otherwise affect any Improvement on the Lease Premises.

"Residence" shall be defined as any Improvement, whether permanent, movable, or temporary, or a portion thereof, which is for the time being a home or place of lodging. A Residence includes any Improvement affixed to the land such as trailers or cabins, built on a raised foundation such as stilts or pilings, and floating residences such as boats, barges, arks, and houseboats, and any combination of such Improvements which provide residential accommodations to the Lessee or others. "Residence" shall not include transitory, intermittent, recreational use of facilities such as campgrounds.

"Residential Use" shall be defined as Improvements such as, but not limited to, sundecks, and sunrooms which are extensions of, or additions to, the upland property and are not water-dependent uses. Although the various uses or Improvements which may fall under this definition may vary by geographic area, lease type, or other factors, it is the intention of the parties to include in this definition all uses and Improvements which are not water-dependent but residential in nature, or those uses and Improvements which are not consistent with common law public trust principles and values.

### **3. CONSIDERATION**

#### **(a) Absolute Triple Net Lease**

This Lease is an absolute triple net lease, pursuant to which Lessor has no obligation with respect to the payment of taxes, insurance, the cost of maintenance, utilities and repairs or other costs or obligations associated with the Leased Premises, except as expressly stated herein.

#### **(b) Rent**

Lessee agrees to pay Lessor rent as stated in this Lease, in annual installments, for the use and occupancy of the Lease Premises. The first installment shall be due on or before the beginning date of this Lease and all subsequent installments shall be due on or before each anniversary of its beginning date during each year of the Lease term, or as otherwise provided in this Lease. Said sums shall be paid in lawful money of the United States of America. Lessee shall send said rent to the mailing address of Lessor. Timeliness of receipt of remittances sent by mail shall be governed by the postmark date as stated in Government Code Section 11002. Invoices for rent due may be provided by Lessor as a courtesy. Lessor's failure to, or delinquency in, providing invoices shall neither excuse Lessee from paying rent, nor extend the time for paying rent.

#### **(c) Modification**

Lessor may modify the method, amount, or rate of consideration effective on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary, without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary of the beginning date. No such modification shall become effective unless Lessee is given at least thirty (30) days' notice prior to the date of the Commission meeting wherein the rent modification is considered, or thirty (30) days' notice prior to the effective date of the increase, whichever provides a greater notice period.

If the consideration for this Lease is based on a percentage of income, royalties, profits, or any similar business performance indicators, Lessee shall provide Lessor with financial statements and all other documents necessary to determine the relevant basis for income.

#### **(d) Penalty and Interest**

Any installments of rent accruing under this Lease not paid when due shall be subject to a delinquency charge equal to five percent (5%) of the principal sum due. Annual payments shall bear interest as specified in Public Resources Code Section 6224 and the Lessor's then existing administrative regulations governing penalty and interest.

#### **(e) Non-Monetary Consideration**

If the consideration to Lessor for this Lease is the public use, benefit, health, or safety, Lessor shall have the right to review

such consideration at any time and set a monetary rental if the Lessor, at its sole discretion, determines that such action is in the best interest of the State. Lessee's assignment or transfer of this Lease pursuant to Section 3 Paragraph 11 below to any third party which results in royalties, profits, or any form of compensation, whether monetary or otherwise, shall give Lessor the right to reevaluate the requirements of this Lease as stated in Section 3 Paragraph 11. Lessee shall be given at least thirty (30) days' notice prior to the date of the Commission meeting wherein the rent modification is considered, or thirty (30) days' notice prior to the effective date that this Lease is converted to a monetary rental, whichever provides more notice.

**(f) Place for Payment of Rent**

All rent that becomes due and payable under this Lease shall be paid to Lessor in person or by United States mail at the Sacramento Offices of the California State Lands Commission, currently at 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825-8202, or at any other place or places that Lessor may designate by written notice to Lessee. Alternately, Lessee may contact Lessor's accounting department for Lessor's current practices for payment by credit card or electronic fund transfer.

**4. BOUNDARIES**

This Lease is not intended to establish the State's boundaries and is made without prejudice to either party regarding any boundary or title claims which may be asserted presently or in the future.

**5. LAND USE**

**(a) General**

(1) Lessee shall use the Lease Premises only for the purpose or purposes stated in this Lease and only for the operation and maintenance of the Improvements expressly authorized in this Lease. Lessee shall commence use of the Lease Premises within ninety (90) days of the beginning date of this Lease or within ninety (90) days of the date set for construction to commence as set forth in this Lease, whichever is later.

(2) All demolition, construction, remodeling, reconstruction, maintenance, repairs, removal, or remediation performed on the Lease Premises at any time by Lessee shall first be authorized by all appropriate Regulatory Agencies. Lessee is solely responsible for determining what approvals, authorizations, or certifications are required, and shall be solely responsible for all costs incurred thereby. In addition, Lessee shall obtain and comply with preventative or remedial measures required by any environmental reports, assessments, or inspections, including, but not limited to those required by the California Environmental Quality Act and/or the National Environmental Policy Act, or as otherwise required by law or reasonably requested by Lessor. Nothing in this Lease shall be interpreted as a pre-approval of any permit, certification, or any other precondition required for the use of the Lease Premises.

**(b) Continuous Use**

Lessee's use of the Lease Premises shall be continuous from commencement of the Lease until its expiration. Lessee's discontinuance of such use for a period of ninety (90) days shall be presumed to be an abandonment unless Lessee demonstrates to Lessor's satisfaction that Lessee's use of the Lease Premises is consistent with similarly situated properties. In the event of an abandonment, Lessor may elect to terminate the Lease as provided in Paragraph 12(a)(3). Abandonment of the Lease Premises shall not relieve Lessee of any obligations under this Lease.

**(c) Repairs and Maintenance**

(1) Lessor shall not be required to make any Repairs in, on, or about all or part of the Lease Premises. Lessee shall, at all times during the term of this Lease and without any cost or expense to Lessor, keep and maintain the Lease Premises, including all Improvements, in good order and repair and in a clean, safe, sanitary, and orderly condition.

(2) Lessee shall make, or cause to be made, any Repairs which may be required by any Regulatory Agency. Lessee shall observe and comply with, any law, statute, ordinance, plan, regulation, resolution, or policy applicable to the Lease Premises in making such Repairs. All work shall be performed with reasonable diligence, completed within a reasonable time, and performed at the sole cost and expense of Lessee.

(3) Lessee expressly accepts the Lease Premises "as is" and expressly acknowledges that:

(i) Lessor has made no representations or warranties as to the suitability of the Lease Premises for any Improvements. Lessee shall conduct all tests necessary to determine the suitability of the Lease Premises for any proposed use or Improvements authorized; and

(ii) Lessor has made no representations or warranties as to the quality or value of any Improvements found on the Lease Premises, or of their conformity to any applicable building codes, zoning ordinances, or other regulations. Lessee agrees

to inspect any preexisting Improvements at its own cost to determine whether such Improvements are safe and suitable for the Lessee's intended use; and

(iii) Lessee shall neither be entitled to any reduction in rent, nor any extension of the terms of this Lease because of damage to or destruction of any Improvements on the Lease Premises.

(iv) Lessee and Lessor agree that any Improvements on the Lease Premises constitute the personal property of Lessee and that fixture law does not apply.

(4) In the event that the Lease Premises is partly, or in whole, comprised of tidal, submerged, or waterfront property, Lessee expressly accepts the hazards involved in using or improving such lands. Lessor is not responsible for, and Lessee shall not be reimbursed for nor receive any offset of rent for, any damages or reduced use of the Lease Premises caused by: local or invasive flora or fauna, flooding, erosion, sea level rise, storms, freezing, inclement weather of any kind, acts of god, maintenance or failure of protective structures, and any other such hazards.

**(d) Additions, Alterations, and Removal**

No Improvements other than those expressly authorized in this Lease shall be constructed by the Lessee on the Lease Premises without the prior written consent of Lessor. Any Additions or Alterations are expressly prohibited. Lessee is also prohibited from any Additions or Alterations which cause a material change to the environmental impact on or around the Lease Premises.

**(e) Enjoyment**

This Lease is non-exclusive, and is subject to the provisions of Section 3, Paragraph 6 below. Lessee shall have the right to exclude persons from the Lease Premises only when their presence or activity constitutes a material interference with Lessee's use and enjoyment of the Lease Premises.

**(f) Discrimination**

Lessee, in its use of the Lease Premises, shall not discriminate against any person or class of persons on any basis protected by federal, state, or local law, including: race, color, creed, religion, national origin, sex, sexual orientation, gender identity, age, marital/parental status, veteran status, or disability.

**(g) Residential Use**

Unless otherwise provided for in this Lease, no portion of the Lease Premises shall be used as a location for a Residence, for the purpose of mooring or maintaining a structure which is used as a Residence, or for Residential Uses.

**(h) Commercial Use**

Unless otherwise provided for in this Lease, the Lease Premises is to be used by Lessee and Lessee's invitees or guests only. Use of the Lease Premises for commercial purposes; conducting a business, whether for profit or otherwise; and any subleasing, rental, or any transaction whereby Lessee directly or indirectly receives compensation from a third party in exchange for use of the Lease Premises shall constitute an immediate Default of this lease with no cure period.

**6. RESERVATIONS, ENCUMBRANCES, AND RIGHTS-OF-WAY**

**(a) Reservations**

(1) Lessor expressly reserves all natural resources in or on the Lease Premises, including but not limited to timber, minerals, and geothermal resources as defined under Public Resources Code sections 6401, 6407, and 6903, respectively; the right to grant and transfer the same; as well as the right to grant leases in and over the Lease Premises which may be necessary or convenient for the extraction of such natural resources. Such leasing shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.

(2) Lessor expressly reserves a right to go on the Lease Premises and all Improvements for any purposes associated with this Lease or for carrying out any function required by law, or the rules, regulations, or management policies of the State Lands Commission. Lessor shall have a right of reasonable access to the Lease Premises across Lessee owned or occupied lands adjacent to the Lease Premises for any purpose associated with this Lease.

(3) Lessor expressly reserves to the public an easement for convenient access across the Lease Premises to other State-owned lands located near or adjacent to the Lease Premises and a right of reasonable passage across and along any right-of-way granted by this Lease; however, such easement or right-of-way shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.

(4) Lessor expressly reserves the right to lease, convey, or encumber the Lease Premises, in whole or in part, during the Lease term for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease.

**(b) Encumbrances**

The Lease Premises may be subject to pre-existing contracts, leases, licenses, easements, encumbrances, and claims and is made without warranty by Lessor of title, condition, or fitness of the land for the stated or intended purpose.

**7. RULES, REGULATIONS, AND TAXES**

(a) Lessee shall comply with and be bound by all presently existing or subsequently enacted rules, regulations, statutes or ordinances of the State Lands Commission or any Regulatory Agency. Occupancy or use of the Lease Premises provides no exemption from applicable regulations including, but not limited to, federal, state, county and local regulations, regulations promoting public health, safety, or welfare, building codes, zoning ordinances, and sanitation regulations. Lessee expressly acknowledges that Regulatory Agencies have jurisdiction over the Lease Premises unless such laws are in direct conflict with state law or public trust principles.

(b) Lessee understands and agrees that a necessary condition for the granting and continued existence of this Lease is that Lessee obtains and maintains all permits or other entitlements. Lessee expressly acknowledges that issuance of this Lease does not substitute for, or provide preference in obtaining authorizations from other Regulatory Agencies.

**(c) Taxes**

(1) In addition to the rent due under this Lease, Lessee accepts responsibility for and shall pay any and all real and personal property taxes, including possessory interest taxes, assessments, special assessments, user fees, service charges, and other charges of any description levied, imposed on, assessed, or associated with the leasehold interest, Improvements on the Lease Premises, any business or activity occurring on the Lease Premises, the Lease Premises itself, or any portion thereof, levied by any governmental agency or entity. Such payment shall not reduce rent due Lessor under this Lease and Lessor shall have no liability for such payment.

(2) In the event that this Lease commences, terminates or expires during a tax year, Lessee shall pay the taxes for the period of such year during which this Lease was in effect.

(3) Any and all taxes and assessments and installments of taxes and assessments required to be paid by Lessee under this Lease shall be paid when due and the official and original receipt for the payment of such tax, assessment, or installment shall be delivered to Lessor upon request.

(4) Lessee shall indemnify and hold Lessor, the Lease Premises, and any Improvements now or hereafter located thereon, free and harmless from any liability, loss, or Damages resulting from any taxes, assessments, or other charges required by this Lease to be paid by Lessee and from all interest, penalties, and other sums imposed thereon and from any sales or other proceedings to enforce collection of any such taxes, assessments, or other charges.

**8. INDEMNITY**

(a) Lessee's use of the Lease Premises and any Improvements thereon is at Lessee's sole and exclusive risk.

(b) In addition to any other obligation to indemnify Lessor as otherwise provided in this Lease, except to the extent caused by the sole negligence and/or willful misconduct of the Lessor, Lessee shall indemnify, hold harmless, and, at the option of Lessor, defend Lessor, its officers, agents, and employees from any and all Damages resulting from Lessee's occupation and use of the Lease Premises. Lessee shall reimburse Lessor in full for all reasonable costs and attorneys' fees, specifically including, without limitation, any Damages arising by reason of: (1) The issuance, enjoyment, interpretation, Breach, or Default of this Lease; (2) The challenge to or defense of any environmental review upon which the issuance of this Lease is based; (3) The death or injury of any person, or damage to or destruction of any property from any cause whatever in any way connected with the Lease Premises, or with any of the Improvements or personal property on the Lease Premises; (4) The condition of the Lease Premises, or Improvements on the Lease Premises; (5) An act or omission on the Lease Premises by Lessee or any person in, on, or about the Lease Premises; (6) Any work performed on the Lease Premises or material furnished to the Lease Premises; (7) Lessee's failure to comply with any material legal or other requirement validly imposed on Lessee or the Lease Premises by a Regulatory Agency.

(c) The reimbursement provisions of this Paragraph 8 shall not apply to any claims, litigation, or other actions which may be brought by either Lessee or Lessor against each other.

(d) Nothing in this paragraph shall be construed as requiring that Lessor defend itself against all or any aspect of any challenge to

this Lease or any associated environmental review. However, Lessee may take whatever legal action is available to it to defend this Lease or any associated environmental review against any challenge by a third party, whether or not Lessor chooses to raise a defense against such a challenge.

(e) Lessee shall notify Lessor immediately in case of any accident, injury, or casualty on the Lease Premises.

#### **9. INSURANCE**

(a) Lessee shall obtain and maintain in full force and effect during the term of this Lease comprehensive general liability insurance and property damage insurance, with such coverage and limits as may be reasonably requested by Lessor from time to time, but in no event for less than the sum(s) specified against any and all claims or liability arising out of the ownership, use, occupancy, condition, or maintenance of the Lease Premises and all Improvements.

(b) The insurance policy shall identify the Lease by its assigned number. The specific Improvements shall also be generally identified, as well as their location on state owned property. The coverage provided shall be primary and non-contributing. Lessee shall keep such policy current. Lessor shall be named as a "certificate holder" and/or an "additional interest" on the policy. Lessee shall provide Lessor with a current certificate of insurance at all times. At Lessor's request, Lessee shall provide a full copy of the current insurance policy, along with any and all endorsements or other such documents affecting the coverage. Lessor will not be responsible for any premiums or other assessments on the policy.

(c) The insurance coverage specified in this Lease shall be in effect at all times during the Lease term and subsequently until Lessor has either accepted all of the Lease Premises as improved or restored by Lessee as provided elsewhere in this Lease. Lessee shall notify Lessor within five (5) business days if the insurance is canceled for any reason.

#### **10. SURETY BOND**

(a) When required by Section I of this Lease, Lessee shall provide a surety bond or other security device acceptable to Lessor, for the specified amount, and naming the State of California, California State Lands Commission as the assured, to guarantee to Lessor the faithful observance and performance by Lessee of all of the terms, covenants, and conditions of this Lease.

(b) Lessor may require an increase in the amount of the surety bond or other security device to cover any additionally authorized Improvements, any modification of consideration, or to provide for inflation or other increased need for security. The surety bond or other security device may be increased on each fifth anniversary of the beginning date of this Lease. Should Lessor fail to exercise such right effective on any fifth anniversary, it may do so effective on any one (1) of the next four (4) anniversaries following such fifth anniversary without prejudice to its right to effect such modification on the next or any succeeding fifth anniversary. No such modification shall become effective unless Lessee is given at least thirty (30) days' notice prior to the date of the Commission meeting wherein the modification of the bond or security is considered, or thirty (30) days' notice prior to the effective date of the increase, whichever provides more notice.

(c) The surety bond or other security device shall be maintained in full force and effect at all times during the Lease term and subsequently until Lessor has either accepted all of the Lease Premises as improved or restored by Lessee as provided elsewhere in this Lease. Lessee must first seek approval of Lessor before changing the type of security device used, or the bond holder.

#### **11. ASSIGNMENT, ENCUMBRANCING OR SUBLETTING**

(a) Lessee shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease and shall not sublet the Lease Premises, in whole or in part, or allow any person other than the Lessee's employees, agents, servants and invitees to occupy or use all or any portion of the Lease Premises without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

(1) Notwithstanding the foregoing prohibition against transfer and assignment, the Lease may be transferred by Lessee if the transfer is caused by the death of a spouse and the full interest of the deceased spouse is transferred to a surviving spouse; or the transfer is caused by the dissolution of the marriage of Lessee and the full interest of one of the spouses is transferred to the other spouse. In the event of such a transfer, Lessor shall be notified in writing within 30 days of the transfer.

(2) Notice to Lessor of Successor Trustee(s): In the event this Lease is held in trust, and the Lessee is a trustee thereof, the substitution or succession of a new trustee shall not be an assignment or transfer for the purposes of this Paragraph. Lessee (and by operation of law, any successor trustee) agrees to provide prompt notice to Lessor of any succession or substitution of trustee in accordance with Paragraph 16(c) of General Provisions, no later than sixty (60) days after the named trustee as appears on the face of this Lease becomes unable or ceases to serve as trustee for any reason.

(b) The following shall be deemed to be an assignment or transfer within the meaning of this Lease:

(1) If Lessee is a business entity, any dissolution, merger, consolidation or other reorganization of Lessee, or the sale or other



transfer of substantially all the assets of Lessee. If Lessee is a publicly traded entity, transfers of interests in Lessee shall not constitute an assignment requiring the consent of Lessor.

(2) If Lessee is a partnership, a transfer of any interest of a general partner, a withdrawal of any general partner from the partnership, or the dissolution of the partnership.

(c) If this Lease is for sovereign lands appurtenant to adjoining littoral or riparian land, Lessee shall not transfer or assign its ownership interest or use rights in such adjoining lands separately from the leasehold rights granted herein without the prior written consent of Lessor.

(d) If Lessee desires to assign, sublet, encumber or otherwise transfer all or any portion of the Lease Premises, Lessee shall do all of the following:

(1) Give not less than 90 days' prior written notice to Lessor;

(2) Provide the name, complete business organization, operational structure, and formation documents of the proposed assignee, sublessee, secured third party, or other transferee; and the nature of the use of and interest in the Lease Premises proposed by the assignee, sublessee, secured third party or other transferee.

(3) Provide the terms and conditions of the proposed assignment, sublease, or encumbrance or other transfer;

(4) Provide audited financial statements for the two most recently completed fiscal years of the proposed assignee, sublessee, secured party or other transferee; and provide pro forma financial statements showing the projected income, expense and financial condition resulting from use of the Lease Premises; and

(5) Provide such additional or supplemental information as Lessor may reasonably request concerning the proposed assignee, sublessee, secured party or other transferee.

(6) Lessor will evaluate proposed assignees, sublessees, secured third parties and other transferees and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed party's financial strength and reliability, their business experience and expertise, their personal and business reputation, their managerial and operational skills, their proposed use and projected rental, as well as other relevant factors.

(e) Lessor shall have a reasonable period of time from the receipt of all documents and other information required under this provision to grant or deny its approval of the proposed party. Lessor may reevaluate the rent, insurance and/or bond provisions of this Lease, and may condition its approval of the proposed assignment, sublease, hypothecation, mortgage, or other transfer on the party's acceptance of the new terms. Lessee's rights stated in this paragraph shall apply regardless of whether the proposed transfer coincides with a regular rent review period as stated in Section 3 Paragraph 3(c) above.

(f) Lessee's mortgage or hypothecation of this Lease, if approved by Lessor, shall be subject to terms and conditions imposed by a separately negotiated encumbering agreement.

(g) Upon the express written assumption of all obligations and duties under this Lease by an assignee approved by Lessor, the Lessee may be released from all liability under this Lease arising after the effective date of assignment and not associated with Lessee's use, possession or occupation of or activities on the Lease Premises; except as to any hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance manufactured, generated, used, placed, disposed, stored or transported on the Lease Premises during Lessee's tenancy.

(h) If the Lessee files a petition or an order for relief is entered against Lessee, under Chapters 7, 9, 11 or 13 of the Bankruptcy Code (11 USC Sect. 101, et seq.) then the trustee or debtor-in-possession must elect to assume or reject this Lease within sixty (60) days after filing of the petition or appointment of the trustee, or the Lease shall be deemed to have been rejected, and Lessor shall be entitled to immediate possession of the Lease Premises. No assumption or assignment of this Lease shall be effective unless it is in writing and unless the trustee or debtor-in-possession has cured all Defaults under this Lease (monetary and non-monetary) or has provided Lessor with adequate assurances (1) that within ten (10) days from the date of such assumption or assignment, all monetary Defaults under this Lease will be cured; and (2) that within thirty (30) days from the date of such assumption, all non-monetary Defaults under this Lease will be cured; and (3) that all provisions of this Lease will be satisfactorily performed in the future.

(i) In the event of any transfer or assignment, under this Paragraph 11 or by any other means authorized by this Lease, the Lease terms shall be for the remaining years existing on the Lease prior to the transfer or assignment. A transfer or assignment shall not extend the term of this Lease.

## 12. DEFAULT AND REMEDIES

### (a) Default

The occurrence of any one or more of the following events shall immediately and without further notice constitute a Default of this Lease:

(1) Lessee's failure to make any payment of rent, royalty, or other consideration as required under this Lease; or

(2) Lessee's failure to obtain or maintain liability insurance or a surety bond or other security device as required under this Lease; or

(3) Lessee's abandonment of the Lease Premises (including the covenant for continuous use as provided for in Paragraph 5(b)) during the Lease term; or

(4) Lessee's failure to obtain and maintain all necessary governmental permits or other entitlements; or

(5) The maintenance of the Lease Premises in violation of, or failure to comply with, any applicable provisions of any Regulatory Agency, Environmental Law, or maintenance of the Lease Premises in a condition constituting nuisance; or

(6) Lessee's Failure to commence to construct and to complete construction of the Improvements authorized by this Lease within the time limits specified in this Lease.

(7) Lessee is found to sublet or otherwise surrender daily management and control of the Lease Premises to a third party without the knowledge, expressed written consent or authorization of the Lessor.

(b) Lessee's failure to observe or perform any other term, covenant, or condition of this Lease when such failure shall continue for a period of thirty (30) days after Lessor's giving written notice shall constitute a Default of this lease. However, if the nature of Lessee's Default under this paragraph is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in Default if Lessee commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion.

(c) Should Lessee Breach any term, covenant, or condition of this Lease under Paragraph 12(b) above three (3) times in any three hundred and sixty-five (365) day period, the third Breach will be a Default under this Lease and Lessor will be entitled to immediately terminate this Lease, and take other appropriate action. Lessor will provide written notice of each Breach as provided above, and provide written notice that future Breaches will constitute immediate Default with no cure period.

### (d) Remedies

In the event of a Default by Lessee and Lessee's failure to cure such Default if such a cure period is applicable, Lessor may at any time and with or without notice do any one or more of the following in addition to any rights or remedies permitted by law:

(1) Re-enter the Lease Premises, remove all persons and property, and repossess and enjoy such premises; or

(2) Terminate this Lease and Lessee's right of possession of the Lease Premises by any lawful means. The termination shall not relieve Lessee of any obligation, monetary or otherwise, which has accrued prior to the date of termination. Such termination shall be effective upon Lessor's giving written notice and upon Lessee's receipt of such notice. Lessee shall immediately surrender possession of the Lease Premises to Lessor. Lessor shall be entitled to recover from Lessee all amounts to which Lessor is entitled pursuant to Section 1951.2 of the California Civil Code, or any other provision of law, including any necessary Repair, renovation, alteration, remediation, or removal of Improvements; or

(3) Maintain this Lease in full force and effect and recover any rent, royalty, or other consideration as it becomes due without terminating Lessee's right of possession regardless of whether Lessee shall have abandoned the Lease Premises, subject to the conditions imposed by Cal. Civil Code § 1951.2; or

(4) Exercise any other right or remedy which Lessor may have at law or equity.

**(e) Determination of Rental Value**

If rent under this Lease is calculated as a percentage of Lessee's income attributable to the Lease Premises and Lessee abandons the Lease Premises during some or all of the applicable period, then the reasonable rental value shall be the percentage of proceeds Lessor would have received had Lessee operated the Lease Premises in the usual and customary manner.

**(f) Waiver of Rights**

The failure or delay of either party to exercise any right or remedy shall not be construed as a waiver of such right or remedy or any Breach by the other party. Lessor's acceptance of any rent shall not be considered a waiver of any preexisting Breach by Lessee other than the failure to pay the particular rent accepted regardless of Lessor's knowledge of the preexisting Breach at the time rent is accepted.

**13. RESTORATION OF LEASE PREMISES AND ENVIRONMENTAL MATTERS**

**(a) Restoration of Lease Premises**

(1) Upon expiration or sooner termination of this Lease, Lessee must immediately surrender possession of the Lease Premises to Lessor. Prior to the time of surrender, Lessee must remove all or any Improvements together with the debris and all parts of any such Improvements at its sole expense and risk, regardless of whether Lessee actually constructed or placed the Improvements on the Lease Premises; or Lessor, at its sole and absolute discretion, may itself remove or have removed all or any portion of such Improvements at Lessee's sole expense. Lessor may waive all or any part of this obligation in its sole discretion if doing so is in the best interests of the State.

(2) As a separate and related obligation, Lessee shall restore the Lease Premises as nearly as possible to the conditions existing prior to the installation or construction of any Improvements. For purposes of this Lease, restoration includes removal of any landscaping; removal of any Hazardous Materials; and to the extent possible, undoing any grading, fill, excavation, or similar alterations of the natural features of the Lease Premises. Lessor may waive all or any part of this obligation in its sole and absolute discretion.

(3) Unless otherwise provided for in this Lease, Lessee shall submit to Lessor no later than one (1) year prior to the expiration of this Lease either: (a) an application and minimum expense deposit for a new lease for the continued use of the Lease Premises, or (b) a plan for the restoration of the Lease Premises to be completed prior to the expiration of the lease term together with a timeline for obtaining all necessary permits and conducting the work prior to the expiration of this Lease.

(4) In removing any or all Improvements, or conducting any restoration work, Lessee shall be required to obtain any permits or other governmental approvals as may then be required by any Regulatory Agency, including, without limitation, any Environmental Law.

(5) Lessor may, upon written notice, in its sole and absolute discretion, accept title to any or all Improvements at the termination of this Lease. Lessor shall notify Lessee that Lessor intends to take title to any or all Improvements within six (6) months of Lessee submitting a plan for restoration under Paragraph 13(a)(3)(b) above. If Lessor elects to take title to any such Improvements, Lessee shall deliver to Lessor such documentation as may be necessary to convey title to such Improvements to Lessor free and clear of any liens, mortgages, loans, or any other encumbrances. Lessor shall not pay, and Lessee shall not be entitled to compensation for Lessor's taking title to such property.

**(b) Environmental Matters**

**(1) Lessee's Obligations:**

(i) Lessee will not use, occupy, or permit any portion of the Lease Premises to be used or occupied in violation of any Environmental Law. Lessee shall not manufacture or generate or store Hazardous Material on the Lease Premises unless specifically authorized under other terms of this Lease.

(ii) Lessee shall practice conservation of water, energy, and other natural resources.

(iii) Lessee shall notify Lessor and the appropriate governmental emergency response agency, or agencies immediately in the event of any release or threatened release of any Hazardous Material.

(2) Lessor may at any time during the Lease term require Lessee to conduct at its own expense and by a contractor approved by Lessor an independent environmental site assessment or inspection for the presence or suspected presence of Hazardous

Material generated, used, placed, disposed, stored, or transported on the Lease Premises during the term of the Lease. Lessee shall provide the results of the assessment or inspection to Lessor and the appropriate governmental response agency or agencies and shall further be responsible for removing or taking other appropriate remedial action regarding such Hazardous Material in accordance with applicable Environmental Law.

**(3) Environmental Indemnity.**

Lessee shall indemnify, defend, and hold Lessor and Lessor's, officer, appointees, volunteers, employees, agents, successors and assigns free and harmless from and against all Damages that may at any time be imposed upon, incurred by, or asserted or awarded against Lessor in connection with or arising from any Breach of Lessee's obligations hereunder; or out of any violation by Lessee of any Environmental Law; or resulting in the imposition of any lien or claim for the recovery of any costs for environmental cleanup or other response costs relating to the release or threatened release of Hazardous Materials on the Lease Premises during the Lessee's tenancy. This obligation shall include any prior leases between Lessor and Lessee and will continue through any periods Lessee is in holdover, unlawful detainer, or any subsequent month-to-month tenancies created by operation of law. Lessee's obligations hereunder will survive the expiration or sooner termination of this Lease.

(4) Violation of this section shall constitute grounds for termination of the Lease. Lessor, shall notify Lessee when, in Lessor's opinion, Lessee has violated the provisions of this section. Lessee shall immediately discontinue the conduct and respond within five (5) business days. Lessee shall take all measures necessary to remedy the condition.

**14. QUITCLAIM**

Lessee shall, upon the early termination of this Lease and at Lessor's request, execute and deliver to Lessor in a form provided by Lessor a good and sufficient release of all rights under this Lease. Should Lessee fail or refuse to deliver such a release, Lessor may record a written notice reciting such failure or refusal. This written notice shall, from the date of its recordation, be conclusive evidence against Lessee of the termination of this Lease and all other claimants.

**15. HOLDING-OVER**

(a) This Lease shall terminate without further notice upon the expiration of the term of this Lease. Lessee shall have removed any Improvements and completed any restoration as required by Lessor prior to the expiration of this Lease, and shall surrender possession of the Lease Premises. Any failure by the Lessee to remove Improvements, restore the Lease Premises, and/or surrender possession of the Lease Premises at the expiration or sooner termination of this Lease shall not constitute a renewal or extension and shall not give Lessee any rights in or to the Lease Premises or any part thereof except as expressly provided in this Lease. Lessee shall be deemed in unlawful detainer of the Lease Premises and Lessor shall be entitled to all resulting legal remedies.

(b) Lessor may, in its sole discretion, choose to accept Rent for the Lease Premises instead of immediately taking legal action to recover possession of the Lease Premises. Any tenancy created by operation of law on Lessor's acceptance of rent shall be deemed a month-to-month tenancy regardless of what sum or sums Lessee delivers to Lessor. Except as set forth below, any subsequent tenancy created in this manner shall be on the same terms, covenants, and conditions set forth in this Lease insofar as such terms, covenants, and conditions can be applicable to a month-to-month tenancy

(c) In recognition of the increased accounting, land management, and supervisory staff time required for month-to-month tenancies, the rent for each month or any portion thereof during such holdover period shall be an amount equal to one hundred fifty percent (150%) of one-twelfth (1/12) of the total compensation for the most recent year paid. In the event this Lease does not require monetary compensation, Lessor shall have the right to establish rent based on the fair market value of the Lease Premises. The month-to-month tenancy may be terminated by Lessee or Lessor upon thirty (30) calendar days' prior written notice to the other.

**16. ADDITIONAL PROVISIONS**

**(a) Waiver**

(1) No term, covenant, or condition of this Lease and no omission, neglect, Default or Breach of any such term, covenant or condition shall be deemed to have been waived by Lessor's acceptance of a late or nonconforming performance or otherwise, unless such a waiver is expressly acknowledged by Lessor in writing. No delay or omission of Lessor to exercise any right or power arising from any omission, neglect, Default or Breach of term, covenant, or condition of this Lease shall be construed as a waiver or any acquiescence therein.

(2) Any such waiver shall not be deemed to be a waiver of any other term, covenant or condition; of any successive Breaches of the same term, covenant, or condition; or of any other Default or Breach of any term, covenant or condition of this Lease.