

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



ITEM
3.29
(ID # 9563)

MEETING DATE:

Tuesday, April 30, 2019

FROM : SHERIFF-CORONER-PA:

SUBJECT: SHERIFF-CORONER-PA: Approval of a two-year Use Permit between County of San Bernardino for periodic track use at San Bernardino Sheriff's Emergency Vehicle Operations Training Center. – District 1 - [\$125,757 – 100% State – Commission on Peace Officer]

RECOMMENDED MOTION: That the Board of Supervisors:


1. Approve the Use Permit between the County of San Bernardino and Riverside County (Riverside County Sheriff's Department) for track use at San Bernardino Sheriff's Emergency Vehicle Operations Training Center, and authorize the Chairman to execute the Use Permit on behalf of the County

ACTION:Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Perez and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington and Perez
Nays: None
Absent: Hewitt
Date: April 30, 2019
xc: Sheriff

Kecia Harper
Clerk of the Board
By: 
Deputy

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STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 48,623	\$ 44,567	\$ 125,757	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: 100% State – Commission on Peace Officer Standards and Training			Budget Adjustment:	No
			For Fiscal Year:	18/19-20/21

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Riverside County Sheriff's Department, Ben Clark Training Center (BCTC), offers comprehensive law enforcement training for all levels of students. Driver training and emergency vehicle operations (EVOC) is a component of this training and is mandated by the California Commission on Peace Officer Standards and Training (Cal POST). This training requires ground space large enough to safely train students in emergency vehicle maneuvers at high speeds. The bulk of this training is for academy recruits.

Up until mid-June 2016, this training was conducted on a vacated and undevelopable parking area located at the west end of the runway at the Ontario Airport. Due to the age of the asphalt and hazards in the middle of the land mass, the area became unacceptable for the required training. The training staff at BCTC researched and surveyed possible alternative locations throughout Riverside County including airports, fairgrounds, industrial parking lots, and raceways. All of these areas proved to have various prohibitive reasons that deemed them unusable.

The San Bernardino Sheriff's Emergency Vehicle Operation Training Center is specifically designed to conduct EVOC training. Inspections by the Driver Training Unit at BCTC, and our regional representative from Cal POST have shown the area to be large enough to safely handle the training courses we previously conducted at the Ontario Airport. The Riverside County Sheriff's Department wishes to formally enter a Use Permit with the County of San Bernardino, to provide driver training in said training center area for an annual fee of \$12,000, a maintenance/utility fee of \$96 per cadet, and a personnel fee of \$50.78 per hour.

Impact on Residents and Businesses

This Use Permit will allow for the Sheriff's Ben Clark Training Center to continue necessary vehicle operation training supporting public safety. This training is 100% reimbursed by Cal POST and will have no fiscal impact on Riverside County residents and businesses.

Additional Fiscal Information

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The County of San Bernardino (County) will bill the Riverside County Sheriff's Department (Permittee) at County rate of \$12,000 per year, \$96 per cadet, and \$50.78 per hour for County Personnel. No budget adjustment is required as the Permit Use cost for the driver training courses is already included in the FY 18/19 budget.

	FY 18/19	FY 19/20	FY 20/21	TOTAL COST
Maintenance/Utility Fee Per Cadet	\$96	\$96	\$96	
Annual Est. No. cadets	263	280	280	
EVOC Personnel Fee Per Hour	\$50.78	\$50.78	\$50.78	
Annual Est. No. Hours Use	224	112	112	
Annual Use Permit Cost	\$ 12,000	\$ 12,000	\$0	
TOTAL Estimated Annual Cost	\$ 48,623	\$ 44,567	\$32,567	\$ 125,757

Contract History and Price Reasonableness

The Sheriff's Ben Clark Training Center paid The City of Los Angeles Department of Airports \$526.85 per day for use of the land mass at the Ontario Airport to conduct EVCO training. The cost of other land masses considered ranged from \$2,500 per day (Lake Elsinore Storm Stadium Parking Lot), to free (Thermal Club Private Raceway), however, none of the land masses considered fully met the operational needs to safely conduct the training.

ATTACHMENTS:

Use Permit (3 copies)


Paul A. Angulo, County Auditor-Controller 4/8/2019


Ryan Carter, Principal Management Analyst 4/23/2019


Gregory V. Priamos, Director County Counsel 4/5/2019



ORIGINAL

Contract Number

SAP Number

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

Real Estate Services Department

Department Contract Representative Terry W. Thompson, Director
Telephone Number (909) 387-5252

Contractor County of Riverside
Contractor Representative Kevin Jeffries, Chairman, Board
of Supervisors, Riverside County
Telephone Number (951) 955-1000
Contract Term Upon execution - 2019 (2 years)
Original Contract Amount \$24,000
Amendment Amount N/A
Total Contract Amount \$24,000
Cost Center 4439201000
GRC/PROJ/JOB No. 33003732
Internal Order No.

Briefly describe the general nature of the contract: This Use Permit is for
the use of the EVOC training area for Permittee's (County of Riverside)
emergency vehicle training course. The Use Permit will commence upon the
last date of execution by the Parties to the agreement for a period of two years
from the commencement date. The County will receive revenue in the amount
of \$12,000.00 per year plus an EVOC track utility and maintenance fee at the
rate of \$96.00 per Riverside County cadet or sworn personnel ,and an EVOC
personnel fee to reimburse County EVOC personnel time.

Note: The information on this transmittal page is for internal County use only and has no legal effect.

Table with 3 columns: Approved as to Legal Form, Reviewed for Contract Compliance, Reviewed/Approved by Department. Includes signature lines and dates.

USE PERMIT

1. **PARTIES TERM:** The County of San Bernardino, hereinafter referred to as COUNTY, hereby permits the County of Riverside, hereinafter referred to as PERMITTEE, to use on a revocable, non-exclusive basis certain portions of the paved roadway areas as described in Paragraph 2 of this Use Permit and shown on Exhibit "A" attached hereto and incorporated herein by this reference ("Use Area") situated at the COUNTY-owned and/or controlled Emergency Vehicle Operations Training Center ("EVOC") located at 18958 Institution Road, Devore, California . This Use Permit is effective as of the last date of execution by the parties and shall expire two years from the effective date as evidenced by the date of last signature attached hereto, provided that this Use Permit has not been sooner terminated as provided herein.

2. **USE:** Subject to Paragraph 1, TERM, PERMITTEE shall use the Use Area for only the following purpose: conducting PERMITTEE's Emergency Vehicle Training Course (each class within the course shall be known as an "Event") with participation in said course limited to active, sworn Riverside County Deputy personnel and cadets currently enrolled in the Riverside County Sheriff's Department Academy program. The Events to be conducted in the Use Area shall include the following classes for the course: remedial driver training and a thirty-two hour regular basic class. Each Event to be conducted at the Use Area shall be in compliance with approved Peace Officers Standards and Training (POST) standards and PERMITTEE shall provide, in writing, a valid POST Control Number to COUNTY prior to PERMITTEE's execution of this Use Permit. PERMITTEE shall not use the Use Area for any other purpose. The Use Area to be used by PERMITTEE for an Event shall be strictly limited to those certain portions of the paved roadway areas within the Use Area that are known as the City Grid Area, Upper Track area and motorcycle pad. PERMITTEE is expressly prohibited from using any other areas within the Use Area or the EVOC for PERMITTEE Events, including but not limited to the skid-pan and water area and any classroom space. PERMITTEE shall submit a written request to COUNTY not less than sixty (60) days prior to each time that PERMITTEE desires to use the Use Area for an Event, which request shall include the following information: duration of use, including date(s) and time(s) of requested use; number of PERMITTEE sworn personnel and cadets attending the Event; name of the class(es) being held for the course; and any other information requested by COUNTY ("Reservation Request"). COUNTY shall, at its sole discretion, determine availability of the Use Area for PERMITTEE's requested use date(s) and inform PERMITTEE if the Use Area is available or not. PERMITTEE understands and acknowledges that COUNTY and County-related uses of the Use Area shall have priority over PERMITTEE's Events.

3. **CONSIDERATION:**

A. **Annual Fee:** PERMITTEE shall pay COUNTY a fee of \$12,000 per each 12-month period during the two year term, which initial 12-month fee shall be paid within five (5) days following the mutual execution of this Use Permit and the second 12-month fee shall be paid within five (5) days of the anniversary of the date this Use Permit is mutually executed.

B. EVOC Personnel Fee: At least one (1) COUNTY EVOC personnel, who shall be a top-tier Training Specialist I or comparable personnel (as determined by the COUNTY in its sole discretion), must be present throughout each Event. As a result, in addition to the annual fee payable pursuant to Paragraph 3.A., PERMITTEE shall also pay to COUNTY an EVOC Personnel Fee. The EVOC Personnel Fee shall be calculated by multiplying the then current hourly pay rate of a COUNTY top-tier Training Specialist I or comparable personnel, including overtime rates, as applicable, by the number of total hours of each Event (with partial hours to be rounded up to whole hours). Current hourly rate for a Training Specialist I is \$50.78 which includes salary and benefits. Current hourly overtime rate is \$49.89 which includes only a 4.17% worker's compensation and 1.45% FICA Medicare cost. Hourly pay rates and compensation are subject to increase. COUNTY shall notify PERMITTEE of any increases in hourly rates and compensation by written notice. If COUNTY personnel other than a top-tier Training Specialist I or comparable personnel are present for each Event, the EVOC Personnel Fee shall be increased to include the then current hourly pay rate of said other personnel, including overtime rates, as applicable, multiplied by the number of total hours of each Event (with partial hours to be rounded up to whole hours). The EVOC Personnel Fee will be invoiced by no later than thirty (30) days after each Event and said fee shall be payable by PERMITTEE within forty (45) days after receipt of the invoice.

C. EVOC Maintenance/Utility Fee: In addition to the annual fee payable pursuant to Paragraph 3.A and the EVOC Personnel Fee payable pursuant to Paragraph 3.B, PERMITTEE shall pay to COUNTY an EVOC track maintenance/utility fee ("EVOC Track Fee") calculated as follows: a non-refundable fee of \$96.00 per PERMITTEE sworn personnel or cadet per Emergency Vehicle Training Course enrollment period, regardless of actual track time or completion of the course. In the event any PERMITTEE sworn personnel or cadet re-enrolls in the Emergency Vehicle Training Course, a subsequent EVOC Track Fee shall be payable by PERMITTEE for each subsequent reenrollment. Prior to PERMITTEE's use of the Use Area, PERMITTEE shall submit a list of all PERMITTEE sworn personnel or cadets enrolled in the Emergency Vehicle Training Course to COUNTY along with a payment of \$96.00 for each PERMITTEE sworn personnel or cadet enrolled. Prior to the start of each successive enrollment periods during the term of the Use Permit, PERMITTEE shall submit to COUNTY a list of all PERMITTEE sworn personnel or cadets and the corresponding EVOC Track Fee.

D. If any fees or other monetary sums are not paid when due and payable, PERMITTEE shall pay to COUNTY an additional amount of Fifty and 00/100 Dollars (\$50.00) for each overdue annual fee or other amount as an administrative processing charge. The parties agree that this administrative charge represents a fair and reasonable estimate of the costs that COUNTY will incur by reason of late payment by PERMITTEE. Acceptance of any administrative charge shall not constitute a waiver of PERMITTEE's default with respect to the overdue fees or other monetary amount or prevent COUNTY from exercising any of the other rights and remedies available to COUNTY. Fees and other monetary amounts not paid when due shall bear simple interest from the date due at the rate of one and one-half percent (1½%) per month until paid in full.

4. **PERMITTEE VEHICLES AND MAINTENANCE/REQUIRED EVOC PERSONNEL:**

A. PERMITTEE shall provide its own vehicles and safety equipment for any Events conducted in the Use Area, including but not limited to, emergency vehicles, safety equipment such as helmets, seat-belts, skid-pan simulator, and/or fixed-base simulator. PERMITTEE shall be responsible, at its sole cost, for any and all vehicle and safety equipment maintenance required for PERMITTEE vehicles and safety equipment. COUNTY shall not provide any vehicles or safety equipment.

B. PERMITTEE may purchase fuel from COUNTY, as available, and purchased fuel shall be billed to PERMITTEE at the then current fuel cost to the COUNTY and payable by PERMITTEE upon demand.

C. PERMITTEE shall provide all of its own personnel, including but not limited to instructors and safety and administrative personnel, as PERMITTEE requires for all PERMITTEE Events. PERMITTEE consents to the presence of at least one COUNTY EVOC personnel throughout each PERMITTEE Event conducted at the Use Area solely for COUNTY administrative purposes, which EVOC personnel shall have no obligation with respect to PERMITTEE's Event.

5. **CONDITION OF USE AREA:** Upon PERMITTEE's use of the Use Area, the same shall conclusively be deemed as acceptance by PERMITTEE that the Use Area is fit and proper for the purposes for which the same is hereby licensed and to be used. PERMITTEE acknowledges, and understands that PERMITTEE accepts the Use Area is provided in "AS IS" condition without any representations or warranties by COUNTY. PERMITTEE expressly waives and releases the COUNTY, and their authorized agents, officers, volunteers and employees against any and all claims or actions, whether originating by subrogation or otherwise, for property damage and/or personal injury and/or death occurring in, on, and about any part of the property, including the Use Area or the entire real property of which the Use Area is a part, and for any costs or expenses incurred by the COUNTY and/or PERMITTEE and/or claims and/or actions arising therefrom. The PERMITTEE, notwithstanding the application of Section 1542 of the California Civil Code, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of the executed release which if known by him or her must have materially affected his or her settlement with the debtor."

expressly waives and relinquishes all rights and benefits afforded them by said Section 1542, and any and all similar laws of any State or territory of the United States. This agreement shall act as a release of future claims that may arise from the above-mentioned damages, claims or actions, whether such claims are currently known, unknown, foreseen, or unforeseen. The PERMITTEE understands and acknowledges the significance and consequences of such specific waiver of Section 1542 and hereby assumes full responsibility for any injuries, damages, losses, or liability that they or their personnel may hereafter incur.

6. **INDEMNIFICATION:** The PERMITTEE agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless the COUNTY and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Use Permit from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. PERMITTEE's indemnification obligation applies to the COUNTY's "active" as well as "passive" negligence but does not apply to the COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civic Code Section 2782.

7. **INSURANCE:**

A. The COUNTY and PERMITTEE are self-insured public entities for the purposes of professional liability, general liability and Workers' Compensation.

B. The PERMITTEE agrees to provide either proof of membership in an approved program of self-insurance sufficient to meet the requirements of Paragraph 7.B and Paragraph 8 or provide insurance set forth in accordance with the requirements herein. If the PERMITTEE uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the PERMITTEE agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the Use Permit hereunder.

Without in anyway affecting the indemnity herein provided and in addition thereto, the PERMITTEE shall secure and maintain throughout the Use Permit term the following types of insurance with limits as shown:

1. Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the PERMITTEE and all risks to such persons under this Use Permit.

If PERMITTEE has no employees, it may certify or warrant to the COUNTY that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the COUNTY's Director of Risk Management.

If, PERMITTEE is a non-profit corporation, organized under California or Federal law, volunteers for PERMITTEE are required to be covered by Workers' Compensation insurance.

2. Commercial/General Liability Insurance – The PERMITTEE shall carry General Liability Insurance covering all operations performed by or on behalf of the

PERMITTEE providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- (a) Premises operations and mobile equipment.
- (b) Products and completed operations.
- (c) Broad form property damage (including completed operations).
- (d) Explosion, collapse and underground hazards.
- (e) Personal injury
- (f) Contractual liability.
- (g) \$2,000,000 general aggregate limit.

3. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the PERMITTEE is transporting one or more non-employee passengers in the use of this Use Permit, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the PERMITTEE owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

4. Umbrella Liability Insurance - An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

8. INSURANCE REQUIREMENTS:

A. Additional Insured – All policies, except for the Workers’ Compensation, shall contain endorsements naming the COUNTY and their officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the use under this Use Permit hereunder. The additional insured endorsements shall not limit the scope of coverage for the COUNTY to vicarious liability but shall allow coverage for the COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

B. Waiver of Subrogation Rights – The PERMITTEE shall require the carriers of required coverages to waive all rights of subrogation against the COUNTY, their officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the PERMITTEE and PERMITTEE’s employees

or agents from waiving the right of subrogation prior to a loss or claim. The PERMITTEE hereby waives all rights of subrogation against the COUNTY.

C. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the COUNTY.

D. Severability of Interests – The PERMITTEE agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the PERMITTEE and the COUNTY or between the COUNTY and any other insured or additional insured under the policy.

E. Proof of Coverage – The PERMITTEE shall furnish Certificates of Insurance to the San Bernardino Real Estate Services Department (RESA) administering the Use Permit evidencing the insurance coverage, including endorsements, as required, prior to the commencement of use hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to RESA, and PERMITTEE shall maintain such insurance from the time PERMITTEE commences use under the Use Permit hereunder until the end of the period of the Use Permit. Within fifteen (15) days of the commencement of this Use Permit, the PERMITTEE shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

F. Acceptability of Insurance Carrier – Unless otherwise approved by the COUNTY Department of Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum “Best” Insurance Guide rating of “A-VII”.

G. Insurance Review – Insurance requirements are subject to periodic review by the COUNTY. The COUNTY’s Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever the COUNTY’s Department of Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the COUNTY. In addition, the COUNTY’s Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the COUNTY, inflation, or any other item reasonably related to the COUNTY’s risk.

H. Deductibles and Self-Insurance Retention – Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Use Permit. PERMITTEE agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of RESD or COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of RESD or the COUNTY.

I. Failure to Procure Insurance. All insurance required must be maintained in force at all times by PERMITTEE. Failure to maintain said insurance, due to expiration, cancellation, etc., shall be cause for the COUNTY to give notice to immediately suspend all PERMITTEE's business activities on the Use Area. Failure to reinstate said insurance within the (10) days of notice to do so shall be cause for termination and for forfeiture of this Use Permit, and/or COUNTY, at its discretion, may procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by COUNTY shall be repaid by PERMITTEE to COUNTY upon demand but only for the pro rata period of non-compliance.

J. COUNTY shall have no liability for any premiums charged for such coverage(s). The inclusion of COUNTY as additional named insured is not intended to and shall not make a partner or joint venturer with PERMITTEE in PERMITTEE's operations.

K. The PERMITTEE agrees to require all parties or subcontractors, or others it hires or contracts with related to the use of this Use Permit to provide insurance covering such use with the basic requirements and naming the COUNTY as additional insured. PERMITTEE agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided as required herein.

9. DAMAGE PROVISIONS: PERMITTEE shall not make any alterations to the Use Area. PERMITTEE must promptly repair any portion of the Use Area and/or Use Area improvements, to the satisfaction of the COUNTY, damaged by PERMITTEE, its employees, cadets, agents or invitees to the condition existing immediately prior to said damage.

10. ATTORNEY'S FEES AND COSTS: If any legal action is instituted to enforce or declare any party's rights hereunder, each party, regardless of which party is the prevailing party, must bear its own costs and attorneys' fees. This paragraph will not apply to those costs and attorneys' fees directly arising from any third party legal action against a party hereto and payable to the COUNTY under Paragraph 6, INDEMNIFICATION, Paragraph 7, INSURANCE, Paragraph 8, INSURANCE REQUIREMENTS, Paragraph 12, HAZARDOUS MATERIALS, and Paragraph 20, RELEASE OF INFORMATION.

11. CONDUCT OF EMPLOYEES: PERMITTEE is responsible for the conduct of its employees, cadets, agents, and invitees on the Use Area and the entire property of which the Use Area is part, provided the presence of such persons on the Use Area or the entire property of which the Use Area is part is related to PERMITTEE's use of the Use Area under this Use Permit. PERMITTEE shall comply with any and all operating procedures for the operation of its Events as provided by COUNTY. COUNTY shall have the right to expel any of PERMITTEE's employees, cadets, agents and invitees who are in violation of the above provision.

12. **HAZARDOUS MATERIALS:**

A. **Definition.** For purposes of this agreement, the term "Hazardous Substance" means any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. ("RCRA"); Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the Clean Water Act, 33 U.S.C. Sections 1251 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Sections 25100 et seq.; the California Hazardous Substance Account Act, Health and Safety Code Sections 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5 et seq.; California Health and Safety Code Sections 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Sections 25170.1 et seq.; California Health and Safety Code Sections 25501 et seq. (Hazardous Materials Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Sections 1300 et seq., all as amended, (the above-cited California state statutes are hereinafter collectively referred to as "the State Toxic Substances Laws") or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court, (c) petroleum or crude oil other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) asbestos.

B. In connection with the use of the Use Area by PERMITTEE, (a) PERMITTEE agrees and acknowledges that it has had an opportunity to investigate all of the property identified on Exhibit "A", Use Area and their environs for the presence of any hazardous substance; (b) any and all reports, studies, analyses, estimates, maps, drawings, materials, etc, if any, delivered by COUNTY to PERMITTEE preceding execution of this Use Permit are delivered to PERMITTEE as an accommodation and not with the intent that such items be relied upon by PERMITTEE, except to the extent that PERMITTEE has independently confirmed the validity of such items; and (c) PERMITTEE's decision to enter into this Use Permit is based upon the investigation, study and analysis of all of the property identified on Exhibit "A", the Use Area and their environs made by PERMITTEE or its agents and/or independent contractors, and not upon oral or written statements or representations of COUNTY. It is expressly understood by PERMITTEE and COUNTY that all statements and representations made by COUNTY which are not included in this agreement (a) are intended by COUNTY to be made as an accommodation to PERMITTEE in COUNTY's investigation and not in lieu of PERMITTEE's investigation; and (b) are not to be relied and acted upon by PERMITTEE.

C. PERMITTEE shall not permit, authorize, or suffer at any time herein relevant the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the Use Area (or any part of the entire real property of which the Use Area is a part) of any hazardous substance, or the transportation to or from the Use Area (or any part of the entire real property of which the Use Area is a part) of any hazardous substance except as set forth in Exhibit "B". Specifically, PERMITTEE shall not dispose nor allow the disposal of any materials, including, but not limited to, tires and hazardous waste, including motor oil and other automotive fluids on the Use Area or any part of the entire real property of which the Use Area is a part.

D. PERMITTEE agrees, in addition to those obligations imposed upon it pursuant to **Paragraph 6, INDEMNIFICATION**, herein, to indemnify, defend with counsel approved by COUNTY, protect and herein hold harmless COUNTY, its directors, officers, employees, agents, assigns, and any successor or successors to COUNTY's interest in the Use Area as it relates to Hazardous Substances as defined in **subparagraph A.** from and against all claims, actual damages (including but not limited to special and consequential damages), punitive damages, injuries, costs, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses of any kind whatsoever paid, incurred or suffered by, or asserted against, the Use Area or any indemnified party directly or indirectly arising from or attributable to (a) any breach by the PERMITTEE of any of its agreements, warranties or representations set forth in this Use Permit, or (b) any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan concerning any hazardous substance on, under or about the Use Area caused by PERMITTEE's use of the Use Area, regardless of whether undertaken due to governmental action. To the fuller extent permitted by law, the foregoing indemnification shall apply regardless of the fault, active or passive negligence, breach of warranty or contract of PERMITTEE.

E. Without limiting the generality of this indemnity, this indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364 to insure, protect, hold harmless and indemnify COUNTY for any liability arising out of PERMITTEE's use of the Use Area pursuant to such sections.

13. **DEFAULT AND RIGHT TO TERMINATE:**

A. If there should be any default by PERMITTEE of any monetary payments under this Use Permit, COUNTY shall give PERMITTEE written notice to correct such default. This Use Permit will not be terminated if within five (5) days after receipt of such written notice, the PERMITTEE shall cure the default.

B. If there should be any default by PERMITTEE of the terms, conditions or covenants as set forth in this Use Permit, other than monetary payments, COUNTY shall give PERMITTEE written notice to correct such default.

1. This Use Permit will not be terminated if within ten (10) days after receipt of such written notice, the PERMITTEE shall cure the default.

2. If such default should continue for ten (10) days or more after receipt of written notice of default, COUNTY may at its option elect to terminate this Use Permit. Such election to terminate shall not be construed as a waiver of any claim the COUNTY may have against PERMITTEE, consistent with such termination.

3. If, however, the nature of such default is such that more than ten (10) days is reasonably necessary to cure such default, and so long as PERMITTEE shall have commenced the correction of such default within ten (10) days after receipt of such notice and shall continuously and diligently proceed in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.

C. If, however, notwithstanding Paragraphs 11A and 11B, in the sole discretion of COUNTY, the default represents a hazard or emergency, PERMITTEE shall perform its obligations immediately. If PERMITTEE fails to perform its obligations immediately, COUNTY may perform the obligations and shall be reimbursed by PERMITTEE for the sum it actually expends (including charges for COUNTY's equipment and personnel) in the performance of PERMITTEE's obligations.

D. Notwithstanding anything to the contrary in this Use Permit, either Party may terminate this Use Permit at any time and for any reason and at any time by giving the other party at least sixty days (60) prior written notice.

E. Upon any termination of this Use Permit, PERMITTEE shall return the Use Area to the COUNTY immediately upon any such termination and PERMITTEE shall have no right to continue using said Use Area. In the event of the failure of PERMITTEE to remove personal property, if any, belonging to it from the Use Area immediately upon any termination of this Use Permit, COUNTY may remove such personal property and place the same in storage at the expense of PERMITTEE and without liability to COUNTY for loss thereof. PERMITTEE agrees to pay COUNTY on demand all expenses incurred in such removal, including court costs and attorney's fees and storage charges.

F. The receipt by the COUNTY of any monetary payments paid by PERMITTEE after any default and the termination of this Use Permit for any reason, or after the giving by COUNTY of any notice to effect such termination, shall not waive the default, reinstate, continue or extend the term of this Use Permit, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by COUNTY to the PERMITTEE prior to the receipt of any such sum of money or other consideration, unless so agreed to be in writing and signed by COUNTY. Any act of the COUNTY or its agents or employees during the term of this Use Permit shall not be deemed to be an acceptance or a surrender of said Use Area, excepting an agreement in writing signed by the COUNTY agreeing to accept such surrender.

14. **DESIGNATION:** The Real Estate Services Department is designated to administer and enforce this Use Permit. Further, the Director, Real Estate Services is authorized to exercise all provisions of this Use Permit on behalf of COUNTY, including but not limited to termination for default provisions.

15. **PERMITS AND LICENSES:** PERMITTEE and its employees, cadets, agents, and invitees must conform to and abide by all rules and regulations relating to the use herein permitted and is subject at all times to applicable rules, regulations, resolutions, laws, ordinances, and statutes of the County of San Bernardino, State of California, the federal government, and all other governmental agencies having jurisdiction over the use and the Use Area. Where permits are required for such use, the same must first be had and obtained from the regulating body having jurisdiction thereof, before such use is undertaken. Failure to comply with this provision will constitute a default and right to terminate by COUNTY under **Paragraph 13, DEFAULT AND RIGHT TO TERMINATE**. The Use Area and the entire real property of which the Use Area is a part have not been inspected by a Certified Access Specialist.

16. **NO INTEREST OR ESTATE:** PERMITTEE agrees that it does not have and will not claim at any time any interest or estate of any kind or extend whatsoever in the Use Area and the entire property of which the Use Area is part, by virtue of this Use Permit or PERMITTEE's use hereunder.

17. **POSSESSORY INTEREST:** PERMITTEE recognizes and understands that this Use Permit may create a possessory interest subject to property taxation and that PERMITTEE may be subject to payment of property taxes levied on such interest.

18. **SURRENDER:** PERMITTEE agrees that it will, upon any termination of this Use Permit, PERMITTEE must promptly repair any portion of the Use Area and/or Use Area improvements, to the satisfaction of the COUNTY, damaged by PERMITTEE, its employees, cadets, agents or invitees to the condition existing immediately prior to said damage.

19. **ASSIGNMENT AND TRANSFER:** PERMITTEE is not allowed to assign or transfer this Use Permit or sub-license all or any portion of the Use Area to any other person, group or organization.

20. **RELEASE OF INFORMATION:** Any information or other materials submitted by PERMITTEE in connection with this Permit are for the exclusive use of the COUNTY, but are subject to disclosure under the provisions of the California Public Records Act, Government Code Section 6250 *et seq.* In the event a request for disclosure of any part or all of any information or other material is made to the COUNTY, the COUNTY will make good faith efforts to notify the PERMITTEE of the request and will thereafter disclose the requested information unless the PERMITTEE requests nondisclosure and agrees to indemnify, defend with counsel approved by COUNTY, and hold the COUNTY harmless in any/all actions brought to require disclosure. The PERMITTEE waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event COUNTY fails to notify PERMITTEE of any such disclosure request and/or releases any information received from the PERMITTEE.

21. **FORMER COUNTY OFFICIALS:**

A. PERMITTEE agrees to provide or has already provided information on former COUNTY administrative officials (as defined below) who are employed by or represent PERMITTEE. The information provided includes a list of former COUNTY administrative officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of PERMITTEE. For purposes of this provision, "COUNTY administrative official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY Administrative Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Exhibit "C", List of Former County Officials.)

22. **MATERIAL MISREPRESENTATION;** If, during the course of the administration of this Use Permit, the COUNTY determines that the PERMITTEE has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the COUNTY, this Use Permit may be immediately terminated. If this Use Permit is terminated according to this provision, the COUNTY is entitled to pursue any available legal remedies.

23. **EVENT PLAN;** Not less than two weeks prior to the commencement of each Event for which a Reservation Request has been agreed by COUNTY in accordance with Paragraph 9, PERMITTEE shall submit an Event Plan ("Plan") to the County of San Bernardino Sheriff Department, outlining specific Event activities, set up and clean up of trash and debris, and portable sanitation. The Plan shall name the Riverside County Sheriff's Department personnel responsible for the administration of the Event, the on-site PERMITTEE supervisor responsible for the operation of the Event and include contact information for such PERMITTEE personnel.

24. **SECURITY, DISCLAIMER OF LIABILITY;** PERMITTEE understands and agrees that the COUNTY is not required to provide, nor shall COUNTY provide any security for the personal property and/or the person of PERMITTEE or anyone using the Use Area. PERMITTEE shall provide at its sole cost sufficient administration and security personnel to secure the Use Area during each Event. COUNTY is not liable for any claims, actions, loss, damages, liabilities, or injuries to the person or property of any person whomsoever at any time arising out of this Use Permit or any Event from any cause whatsoever, including (without limitation) any acts, errors, or omissions of PERMITTEE, anyone claiming or holding by, through or under PERMITTEE or any other person, from the use of the Use Area or the entire real property of which the Use Area is a part by, through, or under the PERMITTEE, or whether directly or indirectly from any state or condition of said Use Area and/or the entire real property of which the Use Area is a part during the term of this Use Permit, and PERMITTEE waives and releases COUNTY from any such claims, actions, loss damages, liabilities, or injuries however arising.

25. **NOTICES:** The PERMITTEE shall designate an on-site coordinator for contact purposes. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person under the provisions of this Use Permit shall be in writing and either served personally or delivered by United States mail, postage prepaid, certified, or registered, return receipt requested. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party, shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notices shall be deemed delivered and effective upon the earlier of (i) actual receipt or (ii) the date of delivery or refusal of the addressee to accept delivery if such notice is sent by United States mail, postage prepaid, certified or registered, return receipt requested.

Permittee: County of Riverside
4080 Lemon Avenue
Riverside, CA. 92501

County: County of San Bernardino
Real Estate Services Department
385 North Arrowhead Avenue
San Bernardino, CA. 92415-0180

26. **LAW:** This Use Permit shall be construed and interpreted in accordance with the laws of the State of California.

27. **SEVERABILITY:** If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Use Permit is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Use Permit or any other portion thereof.

28. **SURVIVAL:** The obligations of the parties that, by their nature, continue beyond the term of this Use Permit, will survive the termination of this Use Permit.

29. **ENTIRE AGREEMENT:** This Use Permit constitutes the entire agreement between the parties. No modifications or waiver will be binding unless made in writing and signed by both parties.

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30. **AUTHORIZED SIGNATORS:** Both parties to this Use Permit represent that the signators executing this document are fully authorized to enter into this agreement.

COUNTY OF SAN BERNARDINO

COUNTY OF RIVERSIDE

Curt Hagman, Chairman, Board of Supervisors

By: 
Kevin Jeffries

Date: _____

Title: Chairman of the Board of Supervisors

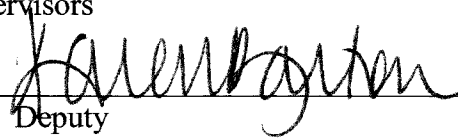
SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

Date: APR 30 2019

LAURA H. WELCH, Clerk of the Board of
Supervisors

KECIA HARPER-~~HEM~~, Clerk of the Board of
Supervisors

By: _____
Deputy

By: 
Deputy

Date: _____


Date: APR 30 2019


Approved as to Legal Form:

APPROVED AS TO LEGAL FORM:

MICHELLE D. BLAKEMORE, County
Counsel
County of San Bernardino, California

GREGORY P. PRIAMOS, COUNTY
COUNSEL, Riverside County, California

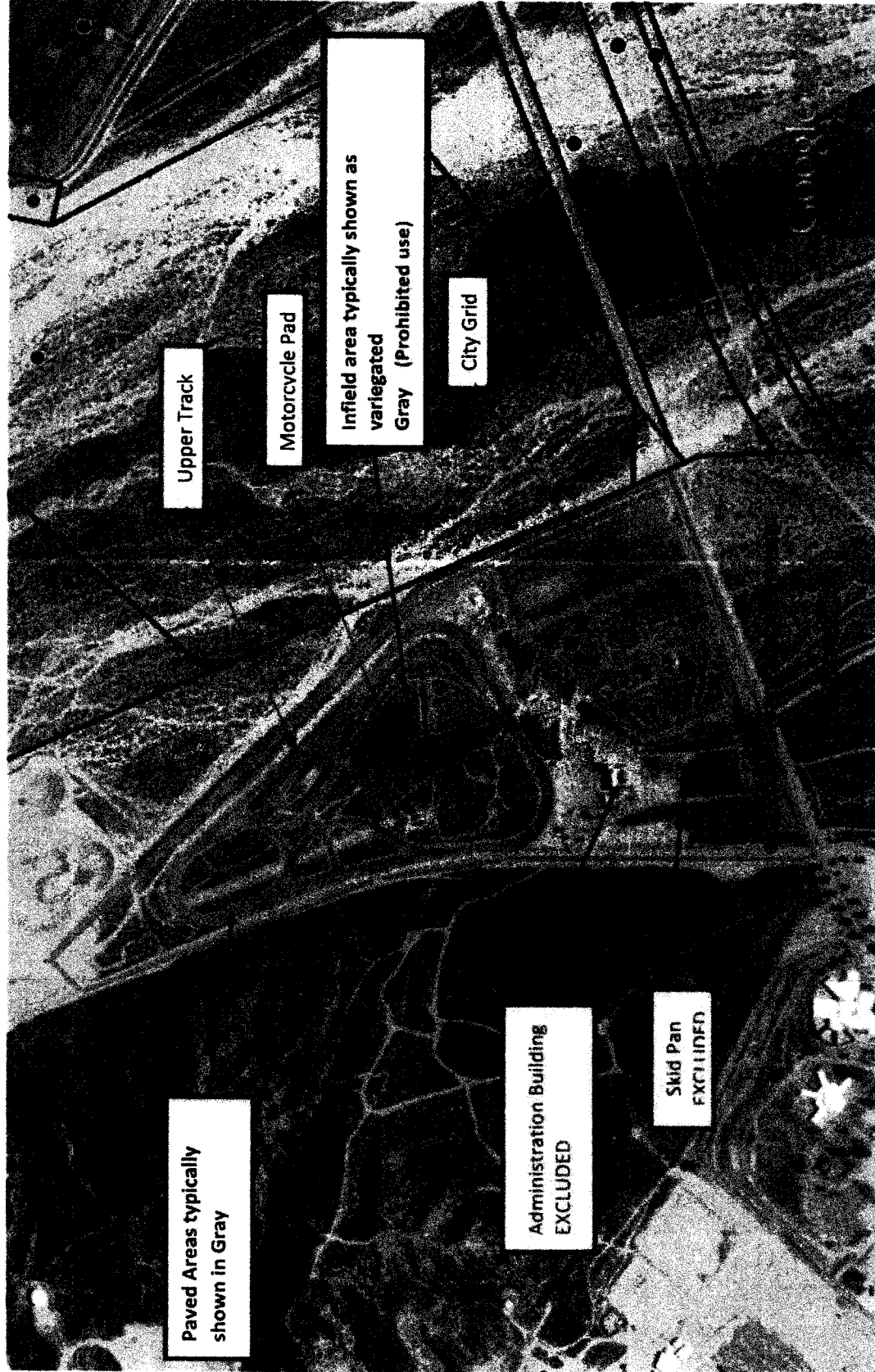
By: 
Agnes Cheng, Deputy County Counsel

By: 
Susan Oh, Deputy County Counsel

Date: 2/27/19

Date: 3/24/19

**EXHIBIT "A"
USE AREA**



Upper Track

Motorcycle Pad

Infield area typically shown as
variegated
Gray (Prohibited use)

City Grid

Paved Areas typically
shown in Gray

Administration Building
EXCLUDED

Skid Pan
EXCLUDED

Use Area within Green Border
(Less Exclusions as shown)

EXHIBIT "B"
HAZARDOUS SUBSTANCES ALLOWED ON THE USE AREA

NONE

EXHIBIT "C"
LIST OF FORMER COUNTY OFFICIALS

INSTRUCTIONS: List the full name of the former COUNTY Administrative Official, the title/description of the Official's last position with the COUNTY, the date the Official terminated COUNTY employment, the Official's current employment and/or representative capacity with the PERMITEE, the date the Official entered PERMITEE's employment and/or representation.

OFFICIAL'S NAME:

REQUIRED INFORMATION