Appendix B – Draft Lease Agreement

LEASE AGREEMENT
BONITA GOLF DRIVING RANGE

3631 Bonita Road
Bonita, California

LESSOR: County of San Diego,
a political subdivision of the State of California

LESSEE: _____,
_____

ASSESSOR'S
PARCEL NUMBER: a portion of 592-020-01-00 and 592-020-05-00

CPN: County Parcel Number 2014-0099-A

County Contract Number: _____

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LEASE AGREEMENT

This lease agreement ("Lease") is dated _____, for purposes of reference only and is between the County of San Diego, a political subdivision of the State of California ("County"), and _____, _____("Lessee").

ARTICLE 1
LEASE OF PREMISES

1.1 Premises. County leases to Lessee and Lessee leases from County, for the rent and upon the covenants and conditions set forth in this Lease approximately 20.80 acres of land which includes an asphalt parking lot ("Premises") located at 3631 Bonita Road, in the unincorporated area of Bonita, California 91902 and further identified as a portion of Assessor's Parcel Number 592-020-01-00 and 592-020-05-00 ("Property"). The Premises is further depicted in EXHIBIT "A" DESCRIPTION OF PREMISES of this Lease.

1.2 Easement Reservations. Lessee accepts the Premises and Property subject to any and all existing easements and encumbrances. County reserves the right to establish, to grant, or to use easements or rights-of-way over, under, along and across the Premises for access, underground sewers, utilities, thoroughfares, or such other facilities as County deems necessary, whether or not such facilities directly or indirectly benefit the Premises or Property; provided, however, that any such grant shall not unreasonably interfere with the use of the Premises by Lessee.

ARTICLE 2
TERM

2.1 Term. The term ("Term") of this Lease is Five (5) years, beginning on _____ ("Commencement Date"). If the Commencement Date is not the first day of a calendar month, then the Term shall include the partial calendar month from and including the Commencement Date through the last day of the partial calendar month at the beginning of the Term, plus the number of months of the full Term, so that the Term shall expire on the last day of a calendar month. The term "Lease Year" as used in this Lease shall mean the 12-month period beginning on the Commencement Date, if the Commencement Date occurs on the first day of a calendar month, or, the first day of the calendar month following the Commencement Date, if the Commencement Date does not occur on the first day of a calendar month, and each succeeding 12-month period thereafter during the Term.

2.2 Extension of Lease Term. Provided that Lessee is not in default of this Lease and subject to County consent, which consent may be withheld at County's sole discretion, Lessee may request an extension of the Term of this Lease for one (1) additional term of five (5) years (each additional term, an "Extension Period"), subject to all original agreements, considerations, covenants, and conditions of this Lease, except for the Rent (defined in Section 3.1) which shall

be subject to adjustment at the beginning of the initial Lease Year of the Extension Period pursuant to Section 3.2 Rent Adjustments of this Lease. To request an Extension Period, Lessee must provide County with written Notice (defined in Section 16.1) no less than one hundred twenty (120) days and no more than three hundred sixty-five (365) days prior to the expiration date of the Term of this Lease. If County does not consent to or deny a request for an Extension Period in a written Notice within ninety (90) days prior to the expiration date of the Term, the request will be deemed denied. If the Extension Period is approved by County, the Extension Period shall begin the day following the expiration of the Term and all references to the Term in this Lease shall include the Extension Period.

2.3 Holding Over. Lessee shall not hold over in the Premises after the expiration or earlier termination of the Term without the express prior written consent of County. To the fullest extent permitted by law and in addition to and without limiting Lessee's indemnification obligations in Section 12.1, Lessee shall indemnify, defend, protect, and hold County harmless from and against all Claims (defined in Section 12.1) arising out of or in connection with any delay by Lessee in surrendering and vacating the Premises as required in Section 2.5. If possession of the Premises is not surrendered to County upon the expiration or earlier termination of the Term, in addition to any other rights and remedies of County under this Lease, Lessee shall pay County a sum equal to one hundred twenty-five percent (125.0%) of the Rent (defined in Section 3.1) in effect prior to the holdover. County's acceptance of any payment from Lessee shall not constitute County's consent to any holding over (which consent may only be granted expressly in a written Notice) nor County's waiver of any of County's rights or remedies. If any tenancy is created by Lessee's possession of the Premises following the expiration or earlier termination of the Term, the tenancy shall be on all of the terms and conditions of this Lease, except that Rent shall be increased as set forth above and the tenancy shall be a month-to-month tenancy subject to termination by County with thirty (30) days written Notice to Lessee.

2.4 Lessee Default; County Remedies; Termination of Lease. Subject to the Notice and cure provisions in this section, County shall have all the rights and remedies available at law or in equity upon default by Lessee, including the right to terminate this Lease. The occurrence of one or more of the following events shall constitute a default by Lessee and a breach of this Lease:

a. Lessee's failure to make any payment required under this Lease when due; or

b. Lessee's default in the performance of any covenants, conditions, representations, warranties or other obligations under this Lease, other than those requiring payment to County; or

c. Lessee voluntarily files any petition under any bankruptcy or insolvency act or law; or

d. Lessee has involuntarily filed against it any petition under any bankruptcy

or insolvency act or law and the matter is not dismissed by a court of competent jurisdiction within ninety (90) days of filing; or

e. Lessee is adjudicated bankrupt; or

f. Lessee makes a general assignment for the benefit of creditors; or

g. Lessee abandons or vacates the Premises for a continuous period in excess of five (5) days; or

h. Lessee uses the Premises for any unauthorized purpose.

On the occurrence of a default by Lessee, County shall notify Lessee of a default in a written Notice. If (i) Lessee fails to cure the default within ten (10) days following the receipt of a written Notice from County; or (ii) a default, other than a default requiring payment to County, is not curable within ten (10) days, and Lessee fails to commence to cure the default within ten (10) days and diligently pursue the cure to completion, County shall have all rights and remedies available at law or in equity, including the right to terminate Lessee's right to possession and this Lease. Any failure by County to promptly notify Lessee of a default in accordance with this Lease shall not be deemed a waiver by County of County's rights on default of Lessee or any subsequent default.

In the event of default by Lessee, County shall have all rights and remedies under law or in equity including without limitation the remedy described in State of California Civil Code Section 1951.4 (County may continue lease in effect after Lessee's breach and abandonment and recover Rent as it becomes due, if Lessee has right to sublet or assign, subject only to reasonable limitations"), or any successor code section. Accordingly, if County does not elect to terminate this Lease on account of any event of default by Lessee, County may enforce all of County's rights and remedies under this Lease, including the right to recover Rent as it becomes due. Acts of maintenance, preservation or efforts to lease the Premises or the appointment of a receiver under application of County to protect County's interest under this Lease or other entry by County upon the Premises shall not constitute an election to terminate Lessee's right to possession.

2.5 Vacation of Premises. Upon the expiration or earlier termination of this Lease, Lessee shall promptly and peaceably vacate and deliver the Premises to County in the same condition in which the Premises was provided to Lessee on the Commencement Date except for Improvements (defined in Section 11.1) that County elects to keep pursuant to Section 11.1, ordinary wear and tear excepted. If required by County, Lessee shall also remove all structures, personal property (including, but not limited to, sheds, furniture, portable restrooms) that are located on the Premises. Upon the expiration or earlier termination of this Lease, Lessee shall promptly (i) provide a written Notice to County that contains Lessee's forwarding address and contact information, and (ii) deliver all keys to the Premises to County.

2.6 Removal of Improvements. Improvements installed by Lessee in accordance with

the provisions of this Lease that are not a replacement or repair of any County-owned improvement on the Premises shall be and remain the property of Lessee, except for Improvements that County elects to keep pursuant to Section 11.1. The Improvements that remain the property of Lessee, shall be removed by Lessee prior to the expiration or earlier termination of this Lease at Lessee's sole expense, provided that any damage to County's property or improvements is repaired and the Premises is left in or restored to the same or better condition as existed on the Commencement Date. If Lessee does not remove Lessee's Improvements prior to the expiration or earlier termination of this Lease, County may remove, sell, or destroy the Improvements at the expense of Lessee, and Lessee shall pay to County the cost to remove, sell, or destroy the Improvements, together with the cost of repairing any resulting damages to County's property or improvements, plus associated administrative expenses. At the option of County, any of Lessee's Improvements not removed by Lessee may be deemed abandoned pursuant to ARTICLE 19 ABANDONMENT of this Lease.

2.7 Removal of Personal Property. Prior to the expiration or earlier termination of this Lease, Lessee shall remove all of Lessee's personal property, including, but not limited to, movable furniture, trade fixtures, office equipment and supplies ("Personal Property") from the Premises. If Lessee fails to remove all of Lessee's Personal Property from the Premises, County may dispose of the Personal Property as provided in Chapter 5.5 (commencing with Section 1993), Title 5, Part 4, Division 3 of the Civil Code of the State of California. Lessee shall repair, at Lessee's sole expense, any damage to Premises or Property caused by the removal of Lessee's Personal Property.

2.8 Limitation of Lessee Remedies. If County neglects or fails to perform or observe any of the terms, covenants, or conditions of this Lease on County's part to be performed or observed: (1) within thirty (30) days after the receipt of written Notice of default, or (2) when more than thirty (30) days are required because of the nature of the default, and County fails to proceed diligently to cure the default after the receipt of a written Notice of the default, then County shall be liable to Lessee for any and all damages sustained by Lessee as a result of County's breach; provided, however, that:

(a) any money judgment resulting from any default or other Claim (defined in Section 12.1) arising under this Lease shall be satisfied only out of the current rents, issues, profits, and other income County receives from County's operation of Premises, net of all current operating expenses, liabilities, reserves and debt service associated with the operation of the Premises ("Net Income"); or

(b) no other real, personal or mixed property of County, wherever located, shall be subject to levy on any judgment obtained against County; or

(c) if the Net Income is insufficient to satisfy the judgment, Lessee will not institute any further action, suit, Claim, or demand, in law or in equity, against County for or on the account of the deficiency; or

(d) the neglect or failure shall not constitute consent by County for Lessee to

perform or observe the terms, covenants, or conditions of this Lease at County's expense; or

(e) in no case shall County be liable to Lessee for any lost profits, damage to business, or any form of special, indirect or consequential damage on account of any breach of or default under this Lease or otherwise, notwithstanding anything to the contrary contained in this Lease, and

(f) Lessee shall have no right to terminate this Lease, except as otherwise expressly permitted in this Lease.

Lessee waives, to the fullest extent permitted by law, any right to satisfy any money judgment against County except from Net Income. Notwithstanding anything to the contrary in this Lease, Lessee's right to seek damages from County as a result of a default by County under this Lease shall be conditioned on Lessee taking all actions reasonably required, under the circumstances, to minimize any loss or damage to Lessee's property or business, or to any of Lessee's officers, employees, agents, invitees, or other third parties that may be caused by any default of County.

2.9 Automatic Termination. If the Permitted Uses (defined in Section 5.1) are (i) prohibited at any time during the Term by any federal, state or local statute, ordinance, regulation, or court opinion ("Use Prohibition"), or (ii) challenged as inconsistent with any use restrictions for the County-owned property that the Premises is part of and the Permitted Uses are deemed by County to be inconsistent with any use restriction ("Use Restriction"), the Term shall automatically terminate as of the effective date of the Use Prohibition or Use Restriction and all Rent owed under this Lease shall be equitably pro-rated on a per diem basis as of the termination date. To the fullest extent permitted by law and in addition to and without limiting Lessee's indemnification obligations to County under Section 12.1 of this Lease, Lessee shall defend and indemnify County Parties (defined in Section 12.1) from any Claim challenging the Permitted Uses as being inconsistent with any Use Prohibition or Use Restriction.

ARTICLE 3
RENT

3.1 Rent. Subject to the rent adjustment provisions in Section 3.2 of this Lease, Lessee shall pay as rent for the use and occupancy of the Premises the sum of _____ dollars ($_____) per month ("Rent"). Lessee shall pay Rent in advance, on or before the first day of each calendar month ("Rent Due Date"), without setoff, deduction, prior written Notice or demand, beginning on the Commencement Date.

If the Commencement Date is a day other than the first day of a calendar month, the Rent for the partial month at the beginning of the Term shall be prorated on a daily basis for the period from the Commencement Date to the end of the partial calendar month.

3.2 Extension Period Rent. If the Extension Period is approved by County pursuant

to Section 2.2, the Rent for the initial Lease Year of the Extension Period shall be subject to an adjustment calculated by County to reflect current market rent for the Premises ("Adjusted Rent"), but in no event shall the Rent be adjusted to an amount less than the Rent for the prior Lease Year, plus _____ percent (___.0%). The Adjusted Rent shall be subject to a _____ percent (_____.0%) upward adjustment beginning on the first day of the second year of the Extension Period and on the first day of each Lease Year thereafter until the expiration of the Term or the earlier termination of this Lease. The Adjusted Rent shall be confirmed in a written Notice sent from County to Lessee.

3.3 Additional Rent. Lessee shall pay to County as "Additional Rent" those charges further described in Section 3.4, Section 10.3, Section 11.3 and ARTICLE 13 of this Lease and any other expenses, fees, interest, charges, reimbursements of every kind and nature relating to the Premises that may arise or become due under this Lease that are Lessee's obligation, whether foreseen or unforeseen. Additional Rent shall be due within fifteen (15) days of the receipt of a written Notice from County to Lessee invoicing the charges for the Additional Rent ("Additional Rent Due Date").

3.4 Address for Rent and Additional Rent Payments. All Rent and Additional Rent together with other amounts of any kind (other than Rent) payable by Lessee to County under this Lease shall be made payable to the County of San Diego, paid using lawful currency of the United States of America which shall be legal tender at the time of payment and shall include a reference identifying this Lease by the "County Contract Number" shown on the cover page of this Lease. Rent and Additional Rent shall be considered paid when delivered to:

County of San Diego
Department of General Services - Fiscal Services
RE: County Contract Number _____
5560 Overland Avenue
Suite 410
San Diego, California 92123

County may, at any time, by written Notice to Lessee, designate a different address for the Rent and Additional Rent payments. County may, but is not obligated to, send Rent invoices to Lessee. All Rent due under this Lease is payable on the Rent Due Date regardless of whether Lessee receives a Rent invoice or a written Notice from County. Lessee assumes all risk of loss and responsibility for payment of late charges if payments are made by mail.

3.5 Failure to Pay Rent or Additional Rent; Late Charge.

a. The late payment by Lessee of any Rent or Additional Rent will cause County to incur expenses not contemplated under this Lease, the exact amount of which is difficult or impracticable to determine. These expenses include, without limitation, administrative, collection, processing, and accounting expenses. If any Rent is not paid by Lessee to County within five (5) days following the Rent Due Date, on the sixth day following the Rent Due Date Lessee shall immediately pay to County a late charge equal to five percent

(5.0%) of the overdue Rent. If any Additional Rent is not paid by Lessee to County within five (5) days following the Additional Rent Due Date, on the sixth day following the Additional Rent Due Date Lessee shall immediately pay to County a late charge equal to five percent (5.0%) of the overdue Additional Rent. These late charges represent a reasonable estimate of County's expenses and is fair compensation to County for County's loss caused by Lessee's nonpayment. If Lessee pays the late charge but fails to pay all unpaid amounts of Rent or Additional Rent due under this Lease, County's acceptance of the late charge shall not constitute a waiver of Lessee's default with respect to the nonpayment by Lessee nor prevent County from exercising all other rights and remedies available to County under this Lease or to the fullest extent permitted by law.

b. In addition, if Lessee fails to pay Rent or Additional Rent at the time it is due and payable, any unpaid amounts shall bear interest at the rate of ten percent (10.0%) per year from the date due to the date of payment, calculated on the basis of monthly compounding with actual days elapsed compared to a three hundred sixty (360) day year. However, interest shall not be payable on late charges incurred by Lessee nor on any amounts on which late charges are paid by Lessee to the extent this interest would cause the total interest to be in excess of that legally permitted. If Lessee pays the interest but fails to pay all unpaid amounts of Rent or Additional Rent due under this Lease, County's acceptance of the interest payment shall not constitute a waiver of Lessee's default with respect to the nonpayment by Lessee nor prevent County from exercising all other rights and remedies available to County under this Lease or to the fullest extent permitted by law.

c. If a dispute arises between County and Lessee as to the correct amount of Rent or Additional Rent owed by Lessee, County may accept any sum tendered by Lessee as payment, without prejudice to County's claim as to the proper amount of Rent or Additional Rent owed. If it is subsequently determined that Lessee has not paid the full amount of Rent or Additional Rent owed, the late charge specified in this Lease shall apply only to that portion of Rent or Additional Rent still due and payable from Lessee. Notwithstanding any provision of this Lease to the contrary, County's Lease Administrator (defined in Section 23.4) may in its sole discretion waive any delinquency payment or late charge upon written application of Lessee.

3.6 Nonsufficient Funds Fee. If Lessee pays Rent or Additional Rent by check and the check is returned to County because of nonsufficient funds ("NSF"), Lessee shall pay County a service charge ("NSF Fee") of twenty-five dollars ($25.00) for the first NSF occurrence and thirty-five dollars ($35.00) for any subsequent NSF occurrence during the Term. The NSF Fee is in addition to any late charges due under this Lease. If more than one (1) NSF occurrence takes place during the Term, County may serve written Notice to Lessee that the next Rent or Additional Rent payments, for a period of up to three (3) months, shall be paid in cash. In addition, County may require by providing a thirty (30) day written Notice that all future Rent or Additional Rent payments must be in the form of electronic funds transfer, cashier's check, or money order.

3.7 Order of Payment. Payments received from Lessee shall be applied first to NSF Fees, then any late charges, interest or Additional Rent, then the oldest outstanding balance of

Rent.

ARTICLE 4
SECURITY DEPOSIT

Lessee shall pay to County the amount of _____ dollars ($_____) as security for Lessee's performance of this Lease ("Security Deposit"). County shall not be required to keep the Security Deposit separate from County's general funds, and Lessee shall not be entitled to interest on the Security Deposit. County may apply all or a part of the Security Deposit to any unpaid Rent, Additional Rent, NSF Fee, late charges, interest or other amounts due from Lessee, or to cure any other defaults of Lessee under this Lease, including County's expenses resulting from the repair and cleaning of the Premises upon the expiration or earlier termination of this Lease. If any portion of the Security Deposit is expended, Lessee shall, within ten (10) days after County's demand, deposit an amount of cash sufficient to restore the Security Deposit to its original amount. If bankruptcy or other debtor-creditor proceedings against Lessee occurs, the Security Deposit shall be applied first to the payment of Rent and Additional Rent due County for the periods prior to the filing of the bankruptcy or other debtor-creditor proceedings. The Security Deposit will not be a limitation on County's damages or other rights under this Lease, or a payment of liquidated damages, or an advance payment of the Rent. If Lessee pays the Rent and Additional Rent and performs all of Lessee's other obligations under this Lease, County will return the unused portion of the Security Deposit to Lessee after the expiration or earlier termination of this Lease in accordance with the law applicable at the time of the expiration or earlier termination of this Lease.

ARTICLE 5
POSSESSION AND USE

5.1 Permitted Uses. Lessee shall use the Premises for the sole purpose of the operation and maintenance of a public golf driving range, together with a concession stand offering snacks and related merchandise sales, golf instruction that includes lessons, clinics, junior programs, and other activities that support the operation of a driving range, and other related uses specified in Section 22 ("Permitted Uses") and for no other purpose, unless previously consented to a written Notice from County to Lessee, which consent may be granted, conditioned or withheld at County's sole discretion. The maximum hours of operation shall be from 7:00 a.m. to 10:00 p.m. No one other than Lessee, and Lessee's agents, volunteers, employees, or any sublessee or assignee of Lessee approved by County as provided in ARTICLE 13 ASSIGNMENT AND SUBLETTING is permitted to use the Premises for the Permitted Uses described in this Lease, and Lessee shall be fully responsible for the activities of Lessee Parties (defined in Section 12.1).

5.2 Duties and Prohibited Conduct. Lessee shall not use nor permit the use of the Premises in any manner that will create waste or a nuisance. Lessee shall not use nor permit any person or persons to use the Premises for the sale or display of any goods and/or services, that, in

the sole discretion of County, are inconsistent with the Permitted Uses. Lessee shall keep the Premises in a decent, safe and sanitary condition, free from any objectionable noises or odors, except as may be typically present for the Permitted Uses.

5.3 Compliance with Laws. Lessee, at Lessee's sole expense, shall procure, maintain and hold available for County's inspection any governmental license or permit required for the proper and lawful conduct of Lessee's business. Lessee, at Lessee's sole expense, shall at all times during the Term promptly comply with all applicable federal (including, but not limited to, Americans with Disabilities Act of 1990 ("ADA")(42 USC Sections 12101 – 12213)), state and local laws, statutes, ordinances, rules, regulations, orders, covenants and restrictions of record, and requirements ("Laws") regulating Lessee's use of the Premises. Lessee shall comply with all Laws in effect as of the Commencement Date or any new or revised Laws enacted or adopted during the Term. The final judgment of any court of competent jurisdiction, or the admission of Lessee or any sublessee or permittee, in any action or proceeding against Lessee or any sublessee or permittee, whether or not County is a party to the action or proceeding, that Lessee, or any sublessee or permittee, has violated any Laws pertaining to the use of the Premises, shall be conclusive as to the violation between County and Lessee.

5.4 Non-interference. Lessee's use of the Premises shall not unreasonably interfere with public use of the County-owned property adjoining the Premises.

5.5 Non-discrimination. When using the Premises pursuant to this Lease, Lessee shall not discriminate or permit discrimination in any manner against any person or class of persons because of race, color, religion, national origin, ancestry, physical or mental disability, medical condition, family and medical leave, marital status, sex, sexual orientation, age, veteran status or any other status protected by law.

5.6 Fees. Any fee charged for the recreational use of the Premises shall be in a reasonable amount and shall not have the effect of unduly limiting use of the Premises by the public.

ARTICLE 6
UTILITIES AND SERVICES

6.1 Utility Services. Lessee, at Lessee's sole expense, shall provide and pay for all utilities and services necessary for the use and occupancy of the Premises, including, but not limited to, gas, water, electricity, maintenance and pumping service for portable toilets, sewage charges or septic service, telephone service and internet service.

6.1.1 Portable Toilet. On or before the Commencement Date, Lessee, at its sole cost and expense, shall procure, install, service, and maintain on the Premises an ADA-compliant portable restroom equipped with a secondary containment tray designed to prevent any discharge, leakage, or contamination of the surrounding ground surface. Lessee's maintenance obligations shall include, without limitation, routine servicing of the portable restroom no less

than once per week to ensure sanitary conditions, adequate odor control, and compliance with all applicable Stormwater Laws set forth in Section 17.2. Prior to placement, Lessee shall obtain the County's Director of Parks and Recreation or a designee ("Director") written approval regarding the exact location and shall ensure that the portable restroom complies in all respects with the requirements of the Americans with Disabilities Act.

6.1.2 Septic System. Lessee acknowledges that the Property is served by a private septic system, including the septic tank, and all related equipment and appurtenances (the "Septic System"). Lessee, at its sole cost and expense, shall maintain a service contract with a qualified, licensed septic service provider and shall timely inspect, pump, service, maintain, and repair the Septic System. The Septic System shall be inspected at least annually and pumped when solids reach one-third (33%) of tank capacity, or more frequently as recommended or required by law. All work involving the Septic System, including the handling and disposal of septic waste, shall be performed in compliance with all applicable federal, state, and local laws and regulations. Lessee shall promptly address any backup, overflow, malfunction, or other condition affecting the Septic System and shall maintain the Septic System in good working order and condition throughout the Term.

Lessee shall maintain service records and provide copies to County upon request. If Lessee fails to perform any required work, or if County reasonably determines that immediate action is necessary to protect the Property or Septic System, County may perform or arrange for such work, and Lessee shall reimburse and pay to County as Additional Rent for all reasonable costs to the extent permitted by law.

6.2 Trash Removal. Lessee, at Lessee's sole expense, shall provide and pay for trash receptacles and trash removal from the Premises and shall maintain all trash receptacles and trash areas in a clean, orderly appearance and first-class condition at all times. Lessee shall not accumulate or permit waste or garbage to accumulate outside Lessee's designated trash container(s). Broken down or discarded equipment or material shall be removed from the Premises immediately. Lessee shall comply with all governmental laws, ordinances, regulations, guidelines and rules now or hereafter applicable to Lessee's use of the Premises with respect to disposal of water, trash, garbage and other matters (liquid or solid) generated by Lessee.

6.3 Custodial Services. Lessee, at Lessee's sole expense, shall provide and pay for all custodial services necessary to keep the Premises in a clean, orderly and first-class condition.

ARTICLE 7
MECHANICS' LIENS

Lessee shall pay, or cause to be paid, all expenses for work performed by Lessee, or caused to be performed by Lessee, on the Premises, and for all materials furnished for or in connection with any work. If any lien is filed against the Premises, Lessee shall cause the lien to be discharged of record within ten (10) business days after it is filed. To the fullest extent

permitted by law and in addition to and without limiting Lessee's indemnification obligations in Section 12.1, Lessee shall indemnify, defend and hold County harmless from any and all liability, loss, damage, attorneys' fees and all other expenses on account of Claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished for Lessee or persons claiming under Lessee.

ARTICLE 8
SECURITY

Lessee shall be responsible for and shall provide for the security of the Premises.

ARTICLE 9
TAXES, ASSESSMENTS AND FEES

9.1 Responsibility for Payment of Taxes and Assessments. County shall not be liable for paying any taxes or assessments accruing against Lessee on the Premises or any interest of Lessee in the Premises before, during or after the Term of this Lease. All tax payments shall be the sole responsibility of Lessee. Lessee shall be solely responsible for payment of any taxes or assessments levied upon any Improvements, fixtures or Personal Property located on the Premises, to the extent that the taxes or assessments result from the business or other activities of Lessee upon, or in connection with, the Premises.

9.2 Definition of Taxes. As used in this Lease, the term "taxes" means all taxes, payments required in association with governmental bonds, special assessments, Mello-Roos assessments, charges, rent income or transfer taxes, license and transaction fees, including, but not limited to, (i) any state, local, federal, personal or corporate income tax, or any real property tax or Personal Property tax, (ii) any estate inheritance taxes, (iii) any franchise, succession or transfer taxes, (iv) interest on taxes or penalties resulting from Lessee's failure to pay taxes, (v) any increases in taxes attributable to the sale of Lessee's leasehold interest in the Premises, or (vi) any taxes which are essentially payments to a governmental agency for the right to make Improvements to the Premises.

9.3 Creation of Possessory Interest. Pursuant to the provisions of the State of California Revenue and Taxation Code Section 107.6, Lessee is advised that the terms of this Lease may result in the creation of a possessory interest. If a possessory interest is vested in Lessee, Lessee may be subjected to the payment of real property taxes levied on the possessory interest. Lessee shall be solely responsible for the payment of any real property taxes. Lessee shall pay all taxes when due, and shall not allow any taxes, assessments or fees to become a lien against the Premises or any improvement on the Premises. Lessee shall not be prevented or prohibited from contesting the validity of any tax, assessment or fee in a manner authorized by law.

ARTICLE 10
REPAIRS; MAINTENANCE

10.1 Acceptance of Premises. Lessee acknowledges that Lessee has made a thorough inspection of the Premises prior to the Commencement Date, and accepts the Premises in its presently existing, "as-is" condition as of the Commencement Date. Lessee acknowledges that County has made no oral or written representations or warranties to Lessee regarding the condition of the Premises, and that Lessee is relying solely on Lessee's inspection of the Premises with respect to the condition of the Premises.

10.2 Lessee's Repair, Maintenance, Restoration and Replacement Obligations. Lessee, at Lessee's sole expense, shall at all times during the Term repair, maintain, restore and replace all portions of the Premises in a good and tenantable condition to the reasonable satisfaction of County. Lessee's repair, maintenance, restoration and replacement obligations under this Lease shall apply regardless of whether the repairs, maintenance, restorations and replacements are ordinary or extraordinary, foreseeable or unforeseeable, capital or noncapital, or the fault or not the fault of Lessee, Lessee's agents, employees, invitees, visitors, licensees, sublessees or contractors. All replacements made by Lessee in accordance with this Lease shall be of like size, kind and quality to the items being replaced and shall be subject to County's prior written consent. Upon surrender of the Premises, Lessee shall deliver the Premises to County in good order, condition and state of repair, ordinary wear and tear excepted.

10.2.1 Maintenance Standard. Lessee's obligation to maintain the Premises under Section 10.2 includes maintenance, repair, reconstruction, and replacement of all asphalt, concrete, landscaping, utility systems, backflow preventor, irrigation systems, drainage facilities or systems, fences, retaining walls or similar support structures, foundations, signage, ornamentation, and all other improvements on or to the Premises, now existing or made in the future, as necessary to maintain the appearance, character and level of quality of the Premises. Lessee's obligation to maintain the Premises described in the immediately preceding sentence shall include: (a) maintaining the surfaces of the Premises including sidewalks and paths; (b) removing all refuse and debris and thoroughly sweeping areas to the extent reasonably necessary to keep such areas in a clean and orderly condition; (c) painting or staining and removing or covering graffiti; (d) placing, keeping in repair and replacing all necessary and appropriate directional signs, markers, and lines; (e) operating, keeping in repair, and replacing where necessary, such artificial lighting fixtures as shall be reasonably required; (f) construct, repair and maintain in good condition all fences, gates and (g) maintaining, mowing, weeding, trimming, and watering all landscaped areas and making such replacements of plants and other landscaping material as necessary to maintain the appearance, character and level of quality of the landscaping to preserve and enhance the natural surroundings of the Premises, all at the sole cost and expense of Lessee.

10.2.2 Restoration Improvements. During the first Lease Year of the Initial Term, Lessee shall, at its sole cost and expense, complete all improvements necessary to restore and rehabilitate the driving range practice stations and concession stand (collectively, "Restoration Improvements"). Such Restoration Improvements shall include at a minimum, without

limitation, interior and exterior painting, repair or replacement of wood affected by dry rot, and replacement of the roof and overhang. Lessee shall, at its sole cost and expense, maintain the appearance, character, and quality of all such improvements throughout the Term pursuant to Section 10.2.1.

10.2.3 Parking Lot Improvements. During the first Lease Year of the Initial Term, Lessee shall, at its sole cost and expense, repair, resurface, restripe, and otherwise improve the parking lot serving the Premises (collectively, the "Parking Lot Improvements"). Thereafter, Lessee shall, at its sole cost and expense, repair and restripe the parking lot at least once every three (3) years, or more frequently as reasonably necessary to maintain the parking lot in good condition and shall perform resurfacing of the parking lot at least once every five (5) years following the first Lease Year. All Parking Lot Improvements and subsequent repairs, restriping, servicing, and maintenance shall comply with the Americans with Disabilities Act and all other applicable federal, state, and local laws, codes, and regulations. Prior to commencing the performance of Parking Lot Improvements, Lessee shall provide County a written Notice that includes specific details regarding the scope and timelines of this project.

The requirements of Sections 11.2, 11.3, and 11.4 shall be applicable to the performance of the Restoration Improvements and Parking Lot Improvements.

10.3 Lessee's Failure to Repair, Maintain, Restore or Replace. If Lessee refuses or neglects to repair, maintain, replace or restore the Premises in a manner reasonably satisfactory to County, County may, upon giving Lessee written Notice, make the repairs, replacement or restorations or perform the maintenance on behalf of and for the account of Lessee. If County makes or causes any repairs, replacements, restorations, or maintenance to be made or performed, as provided for in this Lease, Lessee shall pay all of County's expenses, including administrative expenses, as Additional Rent.

10.4 Certified Access Specialist Inspection. Pursuant to the provisions of State of California Civil Code Section 1938, the Premises has not been inspected by a Certified Access Specialist ("CASP") to determine whether the Premises complies with all applicable construction-related accessibility standards pursuant to State of California Civil Code Section 55.53. A CASp can inspect the Premises and determine whether the Premises complies with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, County may not prohibit Lessee from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of the Premises by Lessee, if requested by Lessee. County and Lessee shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the expense of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises. Nothing in this section shall relieve Lessee from complying with all of Lessee's obligations as to the Premises, as set forth in Section 10.2 of this Lease.

ARTICLE 11

IMPROVEMENTS AND ALTERATIONS

11.1 Improvements. In addition to the improvements Lessee is required to make in accordance with Section 10.2.2 and 10.2.3, Lessee may, at Lessee's sole expense, from time to time during the Term add fixtures or make permanent nonstructural alterations, replacements, additions, changes, and/or improvements ("Improvements") to the Premises as Lessee may find necessary or convenient for the Permitted Uses. Lessee shall provide County a written Notice for any proposed Improvements that includes specific detail regarding the project. Improvements are subject to the prior consent of County, which shall be formalized in a written Notice from County to Lessee where the consent may be granted, conditioned or withheld at County's sole discretion, and provided that the proposed Improvements will not diminish the value of the Premises. As part of County's review of any request from Lessee for proposed Improvements, County may require Lessee to provide additional project information, plans or specifications. If County consents to Lessee's proposed Improvements, Lessee shall provide a minimum of three (3) sets of working drawings or plans showing the proposed Improvements prior to commencing work. In no event shall Lessee make or cause to be made any penetration into or through the roof or floor of any structure on the Premises without obtaining the prior written consent of County, which consent may be granted, conditioned or withheld in County's sole discretion. Prior to the expiration or earlier termination of the Term, County shall provide a written Notice to Lessee stating whether County elects to keep any Improvements installed by Lessee pursuant to this Section 11.1.

11.2 Construction Requirements. All Improvements made to the Premises shall be made under the supervision of a competent architect or licensed structural engineer and made in conformity with plans and specifications consented to in a written Notice from County to Lessee pursuant to Section 11.1 of this Lease prior to the commencement of the work. All work with respect to any Improvements must be performed in a good and workmanlike manner, commence within ninety (90) days following County's consent, and diligently completed to ensure that the Premises shall at all times be a complete unit except during the period of work. Upon completion of the work, Lessee shall record a Notice of Completion in the office of the San Diego County Recorder, as required or permitted by law, and Lessee shall deliver to County, within ten (10) days after completion of the work, a copy of the Notice of Occupancy and the building permit for the work. If requested by County, Lessee shall provide County with two (2) complete sets of "as-built" plans of the Improvements within sixty (60) days following the completion of any Improvements. Lessee shall construct all Improvements in accordance with applicable Laws and shall provide to County unconditional mechanic lien waivers in statutory form executed by contractors, subcontractors, labor suppliers, and materialmen, as the case may be.

11.3 County's Expenses; Indemnity. Lessee shall reimburse County for all reasonable expenses (including, without limitation, any architectural fees, engineering fees or inspection expenses) incurred by County in approving or disapproving Lessee's plans for Improvements. County shall provide Lessee with a written Notice containing an invoice for County's expenses incurred in approving or disapproving Lessee's plans for Improvements. Upon receipt of the invoice, Lessee shall pay County's expenses as Additional Rent as provided in Section 3.3 of this

Lease. To the fullest extent permitted by law and in addition to and without limiting Lessee's indemnification obligations in Section 12.1, Lessee shall be liable for and shall indemnify and defend County from any Claims arising from Lessee's construction or installation of any Improvements consented to by County under this Lease.

11.4 Prevailing Wage. To the extent monthly rent is reduced below market rent and Lessee performs construction, alteration, demolition, installation, repair, refuse and ready-mix concrete hauling, or maintenance (as defined by California Code of Regulations, title 8, section 16000) on the Premises, the amount of the payment provided exceeds one thousand dollars ($1,000), the project shall be deemed a "public work" for prevailing wage purposes. Lessee shall be solely responsible for determining if prevailing wage laws are applicable and ensuring prevailing wages are paid when owed. Projects subject to the payment of prevailing wages are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Lessee shall be responsible for ensuring all required job site postings and all certified payroll and other reporting applicable to it as an awarding body are completed in accordance with the State's prevailing wage regulations. Information regarding the State's prevailing wage requirements can be obtained from the Director, Department of Industrial Relations at: www.dir.ca.gov, State of California Labor Code Section 1720, et seq., and 8 State of California Code of Regulations Section 16000, et seq. ("Labor Code"). To the fullest extent permitted by law and in addition to and without limiting Lessee's indemnification obligations in Section 12.1, Lessee shall defend, indemnify, protect, reimburse and hold County and County Parties harmless from any Claims (defined in Section 12.1) arising in part or in whole from Lessee or Lessee's agents, contractors, or employees' noncompliance with the duties prescribed by this section or the requirements imposed by the Labor Code. Lessee's obligations in this Section 11.4 shall survive the expiration or earlier termination of this Lease. Nothing in this Section 11.4 shall limit or modify Lessee's obligations to comply with the Working Families Ordinance as set forth in Section 17.9 below.

ARTICLE 12
INDEMNITY AND INSURANCE

12.1 Lessee's Indemnity. To the fullest extent permitted by law, County shall not be liable for, and Lessee shall hold harmless, defend at Lessee's own expense and indemnify County and County's elected officials, officers, employees and agents (collectively, together with County, the "County Parties"), against any and all claims, demands, liabilities (including sums paid in settlement of claims), judgments, awards, penalties, fines, mechanics liens or other liens, labor disputes, losses, damages, personal injury, property damages (real property or Personal Property) or loss, and expenses, charges, or costs of any kind or character (including attorneys' fees and court costs) (collectively, "Claim" or "Claims") related to this Lease or Lessee's occupancy of the Premises and arising either directly or indirectly from any act, error, omission or negligence of Lessee or Lessee's contractors, licensees, agents, volunteers, invitees, sublessees, servants, employees, [or any trespassers] ("Lessee Parties"), including, without limitation, Claims caused by the concurrent negligent act, error or omission, whether active or passive, of County Parties. Lessee shall have no obligation, however, to defend or indemnify

County Parties from a Claim if it is determined by a court of competent jurisdiction that the Claim was caused by the sole negligence or willful misconduct of County Parties. Notwithstanding anything to the contrary in this Lease and to the fullest extent permitted by law, Lessee's indemnification obligations provided for in this section shall survive the expiration or earlier termination of this Lease.

12.2 Lessee's Insurance Obligations. Without limiting Lessee's indemnification obligations to County under this Lease, Lessee shall provide and maintain, during the Term and for any other period required in this Lease, at Lessee's sole expense, insurance in the amounts and form specified in EXHIBIT "B" INSURANCE REQUIREMENTS.

12.3 County's Insurance. County maintains a policy of All-Risk Insurance covering County's personal property in the Premises, including any fixtures or equipment in the Premises owned by County. County uses a program of self-funding with regard to any liability it may incur for personal injury or property damage arising out of County's use or occupancy of the Premises.

ARTICLE 13
ASSIGNMENT AND SUBLETTING

Lessee shall not voluntarily or involuntarily assign, sublease, mortgage, encumber, or otherwise transfer all or any portion of the Premises or Lessee's interest in this Lease, or enter into any management agreements, concessions, licenses, or any other arrangement that allows the possession, use, or occupancy of the Premises by anyone other than Lessee (each, a "Transfer"), without County's prior written consent. County's consent to any Transfer shall be conditioned upon the transferee agreeing in writing that transferee will assume the rights and obligations of Lessee under this Lease with respect to the transferred interest, and that the transferee will keep and perform all covenants, conditions, and provisions of this Lease that are applicable to that interest. County may withhold consent to any Transfer at County's sole discretion. Any attempted Transfer without County's consent shall be void and shall constitute a default by Lessee under this Lease. If County consents to a Transfer proposed by Lessee, Lessee may enter into the Transfer, subject to the following:

a. Lessee shall not be released of Lessee's liability for the performance of all of Lessee's obligations under this Lease.

b. Lessee shall pay as Additional Rent to County an amount equal to fifty percent (50.0%) of all Subrent (defined below) received by Lessee from the transferee. The amount of Subrent owed to County shall be paid to County on the same basis, whether periodic or in lump sum, that Subrent is paid to Lessee by the transferee, subject to an annual reconciliation on each anniversary date of the Transfer.

c. As used in this Article, the term "Subrent" shall mean any consideration of any kind received, or to be received, by Lessee as a result of the Transfer, if the consideration is

related to Lessee's interest in this Lease or in the Premises less the sum of (1) the amortized amount for each annual period of (i) reasonable leasing commissions paid by Lessee in connection with the Transfer; (ii) reasonable expenses incurred by Lessee in advertising the Premises or the portion of the Premises transferred ("Transfer Space") and (iii) any Improvements made to Premises as a condition of Transfer, and (2) the Rent and Additional Rent paid during each annual period by Lessee attributable to the Premises or the Transfer Space.

ARTICLE 14
COUNTY'S RIGHT OF ACCESS

14.1 County's Right to Enter Premises. County and County's agents, employees, and contractors may enter the Premises at any time to perform work, services or an inspection in response to any event or situation County deems an emergency. In addition, County, County's agents, employees, and contractors may enter the Premises at reasonable hours and upon reasonable notice to:

a. Inspect the Premises; or

b. Exhibit the Premises to prospective purchasers or leaseholders; or

c. Investigate and determine whether Lessee is complying with Lessee's obligations under this Lease, including Lessee's obligations with respect to compliance with Hazardous Materials Laws (defined in Section 17.3.1); or

d. Provide any service that this Lease requires or authorizes County to provide; or

e. Post notices of non-responsibility or other legal notices; or

f. Make repairs that this Lease requires or authorizes County to make; or

g. Make repairs to any adjoining space or utility equipment or facilities; or

h. Make repairs, alterations, or improvements to any other portion of the Premises or the County-owned property where the Premises is located; or

i. Perform any work that may be necessary to comply with Laws; or

j. Perform any work that County may deem necessary to prevent waste or deterioration in connection with the Premises if Lessee does not perform the work promptly after receipt of written Notice from County; or

k. Perform any work that County may deem necessary in connection with the expansion, reduction, remodeling, protection or renovation of any County-constructed or

County-owned property, facilities, or improvements on or off of the Premises.

All work performed by County will be completed as promptly as reasonably possible and in a manner that causes as little interference to Lessee as reasonably possible. Nothing in this Lease shall imply any duty on the part of County to do any work which, under any provision of this Lease, Lessee may be required to do, nor shall County's performance of any repairs on behalf of Lessee constitute a waiver of Lessee's default in failing to do the work. If County exercises any of County's rights under this Lease, Lessee shall not be entitled to any compensation, damages or abatement of Rent or Additional Rent from County for any resulting injury or inconvenience.

14.2 Lessee's Waiver of Damage Claims. Lessee waives any claim of injury or inconvenience to Lessee's business, interference with Lessee's business, loss of occupancy or quiet enjoyment of the Premises, or any other loss caused by County's entry onto the Premises. Where applicable, Lessee shall provide County with keys to unlock all of the doors in the Premises (excluding Lessee's vaults, safes, and similar areas designated in writing by Lessee in advance). County shall have the right to use any means that County may deem proper to open entry doors to the Premises and passage doors within the Premises in the event of an emergency. County's entry onto the Premises by any means shall not be considered to be a forcible or unlawful entry into the Premises or a detainer of the Premises or an eviction, actual or constructive, of Lessee from the Premises, or any part of the Premises, nor shall County's entry onto the Premises entitle Lessee to damages or an abatement of Rent, Additional Rent or other charges that this Lease requires Lessee to pay.

ARTICLE 15
QUIET ENJOYMENT

Upon Lessee's compliance with all requirements under this Lease, and subject to all rights of County under this Lease, Lessee shall peacefully and quietly have, hold and enjoy the Premises throughout the Term, without hindrance, ejection or molestation by County, or any person lawfully claiming through or under County.

ARTICLE 16
NOTICES

16.1 Notices. All notices, demands, requests or other communication required or permitted to be given under this Lease ("Notice" or "Notices") shall be in writing, include a reference identifying this Lease by the "County Contract Number" shown on the cover page of this Lease, and shall be (i) delivered in person to an officer or an authorized representative of the other party, (ii) sent by United States Postal Service First Class Mail, postage prepaid, or (iii) sent using a nationally recognized courier delivery service, with proof of service, to the following addresses:

If to County: County of San Diego
Attention: Director, Department of General Services
RE: County Contract Number _____
5560 Overland Avenue
Suite 410
San Diego, California 92123

With a copy to: Department of Parks and Recreation
Attn: Joanne McGhee, Chief of Operations
5510 Overland Avenue
Suite 270
San Diego, California 92123
Email: joanne.mcghee@sdcounty.ca.gov

If to Lessee: _____
_____
_____
_____
_____

Notices mailed by the United States Postal Service shall be deemed to have been given, delivered and received three (3) business days after the date the Notice is postmarked by the United States Postal Service. Notices delivered by a courier delivery service shall be deemed to have been given, delivered and received upon proof of service. All other Notices or other communications shall be deemed given, delivered and received upon actual receipt. At any time, County or Lessee may, by written Notice delivered to the other party pursuant to this section, designate a different address to which Notices shall be sent.

16.2 Default Notices. Notwithstanding anything to the contrary in this Lease, any Notice from County regarding a default by Lessee must be in writing but shall be deemed duly given or served upon Lessee by County attempting to deliver at the Premises during normal business hours a copy of the Notice to Lessee or if Lessee is not present at the Premises, Lessee's employee pursuant to State of California Code of Civil Procedure Section 1162(b) and by County mailing a copy of the Notice to Lessee in the manner specified in Section 16.1 of this Lease.

ARTICLE 17
MANDATORY PROVISIONS

17.1 Affirmative Action Program for Vendors. During the Term of this Lease, Lessee shall comply with the Affirmative Action Program for Vendors pertaining to employment of disabled persons, as set forth in Article IIIK (commencing at Section 84) of the San Diego County Administrative Code, which is incorporated into this Lease by this reference. Lessee is informed that County's Affirmative Action Program for Vendors provides that the requirements

of the program shall not apply to any lessee, or subcontractor of a lessee, who has a regular, paid workforce of less than fifteen (15) employees. A copy of this Affirmative Action Program will be furnished to Lessee by County's Lease Administrator upon Lessee's request.

17.2 Compliance with Stormwater Laws. Lessee's use of the Premises is subject to all federal, state and local laws, statutes, regulations, ordinances, policies and guidelines ("Stormwater Laws") regarding the discharge of pollutants into the stormwater conveyance system in effect as of the Commencement Date or any Stormwater Laws enacted or adopted during the Term. Lessee's compliance with Stormwater Laws may include requirements for Lessee to develop, install, implement and maintain pollution prevention measures, source control measures and Best Management Practices ("BMPs"). BMPs can include operational practices, water or pollutant management practices, physical site features, or devices to remove pollutants from stormwater, to affect the flow of stormwater or to infiltrate stormwater to the ground. BMPs applicable to Lessee's use of the Premises may include a requirement that all materials, wastes or equipment with the potential to pollute urban runoff be stored in a manner that either prevents contact with rainfall and stormwater, or contains contaminated runoff for treatment and disposal. Lessee is required to and shall use, operate, maintain, develop, redevelop and retrofit the Premises, as necessary, in accordance with Stormwater Laws restricting the discharge of non-stormwater at or from the Premises and Stormwater Laws requiring pollution prevention measures, source control measures, or the installation or use of BMPs. Lessee shall develop, install, implement and/or maintain at Lessee's sole expense, any BMPs or similar pollution control devices required by Stormwater Laws and any implementing regulations or guidance. Lessee understands and acknowledges that the Stormwater Laws applicable to Lessee's use of the Premises may be changed from time to time by federal, state and/or local authorities, and that additional requirements may become applicable based on changes in Lessee's activities or development or redevelopment by Lessee or County. Lessee shall conduct annual stormwater training, perform regular stormwater self-inspections, maintain records of all stormwater training and self-inspections and provide all necessary documentation to County upon request. Lessee shall develop, install, implement, and maintain any additional BMPs and/or other pollution control practices at the Premises at Lessee's sole expense. To the extent there is a conflict between any federal, state or local law, Lessee shall comply with the more restrictive provision. If County receives any fine or fines from any regulatory agency as a result of Lessee's failure to comply with Stormwater Laws, Lessee shall reimburse County for the entire amount of the fine(s).

17.3 Hazardous Materials.

17.3.1 Hazardous Materials Laws - Definition. As used in this Lease, the term "Hazardous Materials Laws" means any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations, or court decisions (including "common law") relating to hazardous substances, hazardous materials, waste, hazardous waste, toxic substances, environmental conditions on, under or about the Premises, soil and ground water conditions or other similar substances or conditions in effect as of the Commencement Date or any new or revised Hazardous Materials Laws enacted or adopted during the Term, including without limitation the Resource Conservation and Recovery Act of 1976 (42 U.S.C., Section 6901 et seq.), the

Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C., Section 9601 et seq.), the Federal hazardous materials transportation law (49 U.S.C., Section 5101 et seq.), the State of California Hazardous Waste Control Act and the Carpenter-Presley-Tanner Hazardous Substance Account Act (State of California Health and Safety Code Section 25100, et seq., and Section 78000, et seq.), the Safe Drinking Water and Toxic Enforcement Act (State of California Health and Safety Code Section 25249.5, et seq), the Porter Cologne Water Quality Control Act (State of California Water Code Section 13000 et seq.), and the California Environmental Quality Act of 1970, and any amendments to, and regulations implementing, the foregoing.

17.3.2 Hazardous Materials - Definition. As used in this Lease the term "Hazardous Materials" means any chemical, compound, material, substance or other matter that:

a. Is a flammable, explosive, asbestos, radioactive nuclear medicine agent or waste, vaccine or pharmaceutical and related wastes, bio-hazardous waste or infectious agent (including but not limited to infectious bodily fluids), wastes with recognizable human blood or any human tissue, sharps, wastes, bacteria, virus, hazardous waste, toxic, overtly injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials; or

b. Is controlled, referred to, designated in or governed by any Hazardous Materials Laws; or

c. Gives rise to any reporting, notice or publication requirements under any Hazardous Materials Laws; or

d. Is any other material or substance giving rise to any liability, responsibility or duty upon County or Lessee with respect to any third person under any Hazardous Materials Laws.

17.3.3 Lessee's Hazardous Materials Obligations. During the Term, or for a longer period as may be specified in this Lease, Lessee shall comply with the following provisions unless otherwise specifically consented to by County in a written Notice, which consent may be withheld at County's sole discretion:

a. Lessee shall not cause or permit any Hazardous Materials to be brought, kept or used in or about the Premises by Lessee, Lessee's agents, employees, sublessees, assigns, contractors, licensees or invitees, except as required by the Permitted Uses.

b. Any handling, transportation, storage, treatment or usage by Lessee of Hazardous Materials that occurs on the Premises following the Commencement Date shall be in compliance with all applicable Hazardous Materials Laws.

c. Any leak, spill, release, discharge, emission or disposal of Hazardous Materials which occur on the Premises following the Commencement Date shall be

promptly and thoroughly cleaned and removed from the Premises by Lessee at Lessee's sole expense, and any Hazardous Materials discharge shall be promptly reported in writing to County, and to any other appropriate governmental regulatory authorities.

d. No friable asbestos shall be constructed, placed on, deposited, stored, disposed of, or located by Lessee in the Premises.

e. No underground improvements, including but not limited to treatment or storage tanks, or water, gas or oil wells shall be located by Lessee on the Premises.

f. Lessee shall conduct and complete all investigations, studies, sampling, and testing procedures and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from, or affecting the Premises in accordance with all applicable Hazardous Materials Laws and to the satisfaction of County.

g. Activities proposed by Lessee that involve disturbing asbestos materials on site shall only be conducted in accordance with all federal, state and local asbestos rules and regulations including, but not limited to, the United States Occupational Safety and Health Administration ("OSHA"), the United States Environmental Protection Agency ("EPA"), California Occupational Safety and Health Administration ("Cal/OSHA"), and the Air Pollution Control District ("APCD"), with prior written consent of County, as follows:

(1) Prior to conducting asbestos related activities, Lessee shall provide written Notice to County at least thirty (30) days in advance of the proposed work. The written Notice shall include the location of work, type of asbestos containing material ("ACM") to be removed and a work plan indicating the work practices and methods of control to be used during the abatement activity to control asbestos fiber release ("Work Plan"). County's Occupational Health Program shall review the Work Plan and may modify the Work Plan as necessary.

(2) Any asbestos related activities shall be performed by a contractor registered with Cal/OSHA and certified by the California Contractors State Licensing Board to perform asbestos work. Any asbestos related activities shall be overseen by a California Certified Asbestos Consultant ("CAC"), or a Certified Site Surveillance Technician under the direction of a CAC.

(3) Replacement products used in the Improvements or other construction activities shall not contain asbestos. Any replacement products used by Lessee shall be verified as non-asbestos products by using Material Safety Data Sheets and/or having the architect or project engineer verify that ACMs were not used.

h. Lessee shall provide County with copies of all notices, reports, correspondence, and submissions made by Lessee to the OSHA, Cal/OSHA, the EPA and the APCD, and any other federal, state or local authority that requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to applicable

Hazardous Materials Laws.

i. Lessee shall promptly notify County of any liens threatened or attached against the Premises pursuant to any Hazardous Materials Laws. If a lien is filed against the Premises, then within twenty (20) days following the filing or before any governmental authority commences proceedings to sell the Premises pursuant to the lien, whichever occurs first, Lessee shall either: (i) pay the Claim and remove the lien from the Premises; or (ii) furnish either (1) a bond or cash deposit reasonably satisfactory to County in an amount not less than the Claim from which the lien arises, or (2) other security satisfactory to County in an amount not less than that which is sufficient to discharge the Claim from which the lien arises. Upon the expiration or earlier termination of this Lease, Lessee shall surrender the Premises to County free of any and all Hazardous Materials and in compliance with all Hazardous Materials Laws affecting the Premises.

17.3.4 Indemnification by Lessee. To the fullest extent permitted by law and in addition to and without limiting Lessee's indemnification obligations in Section 12.1, Lessee (and, if applicable, each of Lessee's general partners) and Lessee's successors, assigns, and guarantors, if any, jointly and severally shall protect, indemnify, defend (with counsel selected by County), reimburse and hold County and County Parties harmless from any Claims that arise during or after the Term from or in connection with the presence or suspected presence of Hazardous Materials, including the soil, ground water or soil vapor on or under the Premises. Without limiting the generality of the foregoing, the indemnification provided by this section shall cover all expenses incurred in connection with investigation of site conditions or any cleanup, remedial, removal or restoration work required by any Hazardous Materials Laws because of the presence of Hazardous Materials in the soil, ground water or soil vapor on the Premises, and the release or discharge of Hazardous Materials by Lessee during the course of Lessee's alteration or improvement of the Premises.

17.3.5 Remedies Cumulative; Survival. The provisions of this Section 17.3 shall be in addition to any and all common law obligations and liabilities Lessee may have to County, and any remedies and the environmental indemnities provided for in this Section 17.3 shall survive the expiration or earlier termination of this Lease and/or any transfer of all or any portion of the Premises, or of any interest in this Lease, and shall be governed by the laws of the State of California.

17.3.6 Inspection. County and County's agents, contractors, consultants, servants, and employees including, without limitation, legal counsel and environmental consultants and engineers retained by County, may (but without the obligation or duty to do so), from time to time during reasonable hours, or at any time in the event of an emergency, inspect the Premises to investigate and determine whether Lessee is complying with Lessee's obligations under this Section 17.3, including performance of environmental inspections and samplings. If County determines that Lessee is not in compliance with Lessee's obligations, County shall have the right, but not the obligation, in addition to County's other remedies available at law and in equity, to enter the Premises immediately or at any time deemed appropriate by County and take any action that County in County's sole judgment deems appropriate to remediate any actual or

threatened contamination. County will use reasonable efforts to minimize interference with Lessee's use of Premises but shall not be liable for any interference caused by County's entry, inspection, investigation, sampling, or remediation efforts. Upon completion of any inspection, County will use reasonable efforts to repair any area of the Premises damaged by County's sampling and testing conducted as part of the investigation, provided that the restoration work and materials will be at Lessee's sole expense if County conducted the sampling and testing in response to Lessee's breach or default under this Lease.

17.4 Energy Conservation by Lessee. Lessee shall be responsible for using energy conservation measures in the operation of all activities on the Premises and shall comply with all Laws relating to the conservation of energy in effect as of the Commencement Date or any new or revised Laws relating to the conservation of energy enacted or adopted during the Term.

17.5 Energy Conservation. County is required to comply with all Laws requiring the installation of energy-efficient systems, fixtures, and equipment at County buildings and facilities. In accordance with all Laws and pursuant to the provisions of this Lease, Lessee shall maintain or repair, or cause to maintain or repair, the Premises, and related systems in accordance with current energy conservation standards.

17.6 Allocation of Costs for Energy Conservation Systems, Fixtures, and Equipment. During the Term of this Lease, County may be required to install new energy-efficient systems, fixtures, or equipment in the Premises or to serve the Premises. County shall be entitled to reasonably and equitably allocate the costs County incurs in connection with the installation of new energy-efficient systems, fixtures, or equipment. County shall be entitled to amortize the cost of any capital improvements to any building, machinery or equipment installed that is made or becomes operational during the Term of this Lease and which has the effect of reducing Lessee's expenses that otherwise would be billed as operating costs. County shall have the option of allocating additional operating costs to lessees or occupants at either the actual cost or at a level equal to the projected or proven, operating cost reductions to Lessee.

17.7 Water Conservation by Lessee. As applicable to the Permitted Uses, Lessee shall be responsible for using water conservation measures in the operation of all activities on the Premises. Lessee shall cooperate with County, and any local water district or public agency having jurisdiction over the Premises, in all practical and reasonable forms of water conservation including drought-resistant landscaping, automatic flow-control irrigation systems, and low-flow plumbing fixtures and equipment as delineated in County Board of Supervisors Policy A-106 "Water Supply, Conservation, and Reclamation." Lessee shall comply with all Laws relating to the conservation of water and any mandated emergency water conservation orders from County and any local water district or public agency having jurisdiction over the Premises in effect as of the Commencement Date or any Laws relating to the conservation of water and any mandated emergency water conservation orders enacted or adopted during the Term.

17.8 Recycling and Waste Reduction. Lessee shall comply with County recycling and waste reduction policies, procedures and programs as they apply to Lessee's use of the Premises. Lessee shall conduct Lessee's operations on the Premises in accordance with all applicable Laws

relating to recycling and waste reduction in effect as of the Commencement Date or any Laws relating to recycling and waste reduction enacted or adopted during the Term.

17.9 Working Families Ordinance. Lessee shall comply, and shall ensure that Lessee's sublessees at all levels and Lessee's real property licensees at all levels comply, with the Working Families Ordinance set forth in Sections 73.10, et seq. of the San Diego County Administrative Code, which pertains to the payment of wages, utilization of a skilled and trained workforce, working conditions, and the provision of paid sick leave. Lessee shall post the County's Working Families Ordinance notice (available upon request and at https://www.sandiegocounty.gov/OLSE) in a conspicuous and accessible place in each location at which employees are employed, as required by the Working Families Ordinance. Lessee shall maintain records sufficient to document Lessee's compliance with this Section 17.9, including, if applicable, evidence of qualification for an exemption from the Working Families Ordinance, and shall provide such records to County upon request. Lessee hereby grants County permission to conduct an investigation regarding Lessee's compliance with the Working Families Ordinance at any time, which investigation may include, but is not limited to, audit of documentation, inspection of the Premises, and interviews of employees and/or workers.

17.10 Composting. Lessee shall comply with County composting policies, procedures and programs as they apply to Lessee's use of the Premises. Lessee shall conduct Lessee's operations on the Premises in accordance with all applicable Laws relating to the composting of food service items in effect as of the Commencement Date or any Laws relating to the composting of food service items enacted or adopted during the Term.

17.12 CLEAR Ordinance.

17.12.1 County Confidential Information.

a. Definitions. For purposes of this Section, "County Confidential Information" means, collectively information related to any: (i) actions that an individual has the right to undertake free from undue governmental interference, discrimination, or criminalization under federal, state or local law including, without limitation, Reproductive Healthcare Services, Gender Affirming Health Care, Gender Affirming Mental Health Care, and exercising rights under the First Amendment of the United States Constitution (collectively, "Protected Personal Activity"), and (ii) actual or perceived attributes of an individual that are safeguarded from discrimination under state law including, without limitation, immigration or citizenship status, disability status, gender identity or expression, or transgender status, sexual orientation, race, ethnicity, national origin, or language, and/or marital or familial status (collectively, "Protected Personal Characteristics"). All capitalized terms used in this Section 17.12 but not defined in this Section 17.12, shall have the meaning assigned to such terms in Section 966 of the San Diego County Code of Administrative Ordinances.

b. Confidentiality. Lessee agrees to maintain County Confidential Information received or obtained pursuant to the obligations under this Lease, if any, confidential, and shall not share and/or transmit such information to any third party

including, without limitation, any governmental agency unless required to do so pursuant to federal, state, or local law, or as necessary to perform the obligations of Lessee pursuant to this Lease. Lessee agrees to include these requirements in any subcontract related to the performance of this Lease. The obligation to maintain County Confidential Information confidential and private shall survive the expiration or earlier termination of this Lease.

c. Notice Requirement. Should Lessee receive a request from any Federal Law Enforcement Agency Personnel, Out-of-State Law Enforcement Personnel, or a Private Party Acting Under the Color of Law Enforcement Authority for assistance with any Law Enforcement Activity where the alleged criminal activity is a Protected Personal Characteristic and/or a Protected Personal Activity, Lessee shall, within five (5) business days of receipt of such request, notify County in writing and include (i) the requesting party, (ii) a description of the request, and (iii) the County Confidential Information released, if any.

17.12.2 Access to Facilities.

a. No Access. Lessee shall not provide access to any non-public area of the Premises, to any Federal Law Enforcement Agency Personnel, Out-of-State Law Enforcement Personnel, or a Private Party Acting Under the Color of Law Enforcement Authority for the purpose of carrying out law enforcement activities where the alleged criminal activity is a Protected Personal Characteristic and/or a Protected Personal Activity ("Facility Access"), except as expressly permitted pursuant to Article LXV of the San Diego County Code of Administrative Ordinance.

b. Notice of Access. Lessee shall provide the County's Lease Administrator with notice within two (2) hours of any Facility Access, as defined in Section 17.12.2a.

17.12.3 Additional Signage Requirements. In addition to the signage required in Section 5.2 of this Lease, County shall be entitled to display signage at each public entrance of the Premises consistent with the requirements for signage to be posted at County facilities as set forth in Section 970 of the San Diego County Code of Administrative Ordinances.

ARTICLE 18
WAIVER OF RELOCATION ASSISTANCE BENEFITS

18.1 Relocation Assistance Benefits. Lessee is informed and acknowledges the following:

a. By entering into this Lease and becoming a tenant of County, Lessee may become entitled to receipt of "relocation assistance benefits" ("Relocation Benefits") pursuant to the Federal Uniform Relocation Assistance Act (42 U.S.C. Section 4601 et seq.) and/or the California Relocation Assistance Law (State of California Government Code Section 7260 et

seq.) (collectively, the "Relocation Statutes") should County at some time make use of the Premises in such a way as to "displace" Lessee from the Premises. Pursuant to the Relocation Statutes, County may then become obligated to make payments to Lessee even where the displacement of Lessee does not otherwise constitute a breach or default by County of County's obligations pursuant to this Lease.

b. Under the Relocation Statutes in effect as of the Commencement Date, Relocation Benefits may include payment to a "displaced person" of (i) the actual and reasonable expense of moving himself or herself and a family, business, or farm operation, including Personal Property, (ii) the actual direct loss of reestablishing a business or farm operation, but not to exceed ten thousand dollars ($10,000), or (iii) payment in lieu of moving expenses of not less than one thousand dollars ($1,000) or more than twenty thousand dollars ($20,000).

18.2 Lessee's Waiver and Release of Relocation Benefits. In consideration of County entering into this Lease, Lessee waives any and all rights Lessee may now have, or may subsequently obtain, to Relocation Benefits arising out of County's assertion or exercise of County's contractual rights to terminate this Lease pursuant to its terms, whether or not the rights are contested by Lessee or any other entity, and releases County from any liability for payment of Relocation Benefits. Lessee does not waive Lessee's rights to Relocation Benefits to the extent that Lessee's entitlement to Relocation Benefits may arise out of any condemnation or pre-condemnation actions taken by County or any other public agency with respect to the Premises. Lessee shall in the future execute any further documentation of the release and waiver provided by this article as reasonably required by County.

ARTICLE 19
ABANDONMENT

Lessee shall not vacate, abandon or permit the Premises to remain unoccupied for a period of longer than five (5) consecutive days during the Term of this Lease. If Lessee abandons, vacates or surrenders the Premises, or is dispossessed by process of law, or otherwise, then any Improvements (other than Improvements that County elects to keep pursuant to Section 11.1) or Personal Property belonging to Lessee that are left on the Premises shall, at the option of County, be deemed abandoned. County may dispose of any Improvements or Personal Property deemed abandoned in any manner provided by Laws and is relieved of all liability for disposing any Improvements or Personal Property. Lessee waives any right to notice Lessee may have under State of California Civil Code Section 1951.35, the terms of Section 2.4 being deemed such notice to Lessee as required by said Section 1951.35. These provisions shall not apply if the Premises are closed and business temporarily discontinued due to a Force Majeure event as defined in Section 23.11 of this Lease.

ARTICLE 20
DAMAGE OR DESTRUCTION

20.l Notwithstanding anything to the contrary contained herein, in no event shall County have any obligation in the event of a fire, flood or other casualty to repair or restore the Premises, including, without limitation, any improvements that are located on the Premises as of Commencement Date, any of Lessee's Personal Property, or any structures, improvements, or other items installed, placed or maintained by Lessee or Lessee's Parties whether now existing or hereafter located in, on, or about the Premises or any portion of the Property. Should existing improvements, Lessee's Improvements, Parking Lot Improvements, Restoration Improvements, or Personal Property be damaged by fire, flood, or other perils covered by the insurance Lessee is required to carry under this Lease, Lessee shall, at its sole cost and expense, restore the existing improvements, Parking Lot Improvements, Restoration Improvements, Improvements, or Personal Property to substantially the same condition as they were in immediately preceding the damage or destruction. If the damage and destruction is not fully covered by the insurance Lessee is required to maintain, or if the insurance proceeds available to Lessee are insufficient to cover the full cost of restoration, or if total destruction of the Premises occurs and the Premises are rendered unusable, either County or Lessee shall have the right to terminate this Lease by providing written notice to the other party within thirty (30) days of the casualty event. Upon such termination, all insurance proceeds available to Lessee for the coverage described herein shall assigned or otherwise made available to County, with the exception of insurance proceeds received by Lessee for Lessee's damaged or destroyed Personal Property.

20.2 Release of Liability. Upon any termination of this Lease under any of the provisions of this article, County and Lessee shall be released by the termination without further obligation to the other party coincident with the surrender of possession of the Premises to County, except for items which have accrued under the Lease and are unpaid. If this Lease is terminated, all proceeds from Lessee's insurance, but excluding proceeds for Lessee's merchandise and Personal Property, shall be disbursed and paid to County.

20.3 Uninsured Casualty. If the Premises is damaged by any flood, earthquake, act of war, nuclear reaction, nuclear radiation or radioactive contamination, or any other casualty not covered by Lessee's insurance, Lessee shall have the election, and shall within thirty (30) days following the date of the damage give County written notice of Lessee's election, either to commence reconstruction of the Premises and pursue the reconstruction diligently to completion, in which event this Lease shall continue in full force and effect, or not to perform the reconstruction of the Premises, in which event this Lease shall cease and terminate upon Lessee's notice of Lessee's election to terminate.

20.5 Major Destruction. Notwithstanding anything in this article to the contrary, in the event that, at any time after the Commencement Date, (i) the Premises are damaged or destroyed to the extent of more than fifty percent (50.0%) of their replacement cost, or (ii) the damage is of an extent that the Premises cannot be substantially repaired and restored within one hundred eighty (180) days after the casualty, then County or Lessee shall have the right to terminate this Lease with written Notice to Lessee within thirty (30) days after the destruction.

20.6 Casualty Caused by Lessee. Notwithstanding anything to the contrary in this Lease, if the Premises are damaged by an event of casualty resulting from the fault, negligence, or breach of this Lease by Lessee or Lessee Parties, Lessee shall be liable to County for all expenses related to the restoration, repair, and replacement of the Premises to the extent the expenses are not covered by insurance proceeds.

ARTICLE 21
EMINENT DOMAIN

21.1 Condemnation. If more than twenty-five percent (25.0%) of the total area of the Premises is condemned, taken or appropriated by any public or quasi-public authority under the power of eminent domain, police power or otherwise (or in the event of a sale in lieu thereof), either County or Lessee may terminate this Lease as of the date that the condemning authority takes possession by delivery of written Notice of the election within twenty (20) days after the party has been notified of the taking or, in the absence of a Notice, within twenty (20) days after the condemning authority has taken possession.

21.2 Continuation of Lease After Condemnation. If this Lease is not terminated by County or Lessee, or if less than twenty-five percent (25.0%) of the total area of the Premises is taken, the Lease shall remain in full force and effect as to the portion of the Premises remaining; provided, however, that the Rent shall be reduced in proportion to the reduction of the area of the Premises.

21.3 Allocation of Condemnation Award. Any and all payment, income, award, or any interest which may be paid or made in connection with the taking of any part of the Premises or proceeds from the sale made under the threat of the exercise of the power of eminent domain, shall be the property of County, whether made as compensation for diminution of value of the leasehold estate, for the taking of the fee, or as severance damage; provided, however, that Lessee shall be entitled to any award for loss of or damage to Lessee's Improvements, Personal Property and business good will.

21.4 Waiver. Lessee waives the provisions of State of California Civil Code Section 1265.130 allowing Lessee to petition the superior court to terminate this Lease as a result of a partial taking.

ARTICLE 22
SPECIAL PROVISIONS

Lessee shall comply with the following special provisions applicable to this Lease, which shall be monitored by the Lease Administrator:

22.1 Operations. Lessee shall enforce the following operational restrictions:

(a) Lessee acknowledges that this Lease is being issued strictly for the Permitted Use and shall not be used for any other purposes without obtaining the prior written consent of County, which consent may be approved, withheld or conditioned at County's sole discretion.

(b) Lessee shall assume the role of an "umbrella" organization under which other organizations may perform demonstration, research and community outreach events and programs. Through the Lessee, other interested public and private groups or individuals could propose programs and events that are aligned with the Permitted Use for the Premises. Lessee is not required to seek additional approval from County for these programs so long as such programs comply with the Permitted Use. Notwithstanding the foregoing, Lessee shall remain liable and continue to indemnify and defend any and all activities on the Premises whether conducted by Lessee or another party.

(c) To the extent permitted by Law, Lessee shall not place any billboards or advertising signs on the Premises without the prior written consent of the Director, which consent may be withheld or conditioned at the Director's sole discretion. Lessee may place and maintain safety, warning and directional signs and signs related to the use and operation of the Premises. Any signs permitted under this Lease must be of reasonable dimensions and conform to all Laws.

22.2 County Parks Regulations. County Regulations applicable to Lessee's use of the Premises include the following requirements:

(a) Chemical Use. Due to the proximity of the Premises to the Sweetwater River, the County requires the protection of the area's natural resources. Lessee shall use only pesticide products registered for use in California and bearing the signal word "Caution," or pesticide products legally exempt from registration. Pesticide products bearing the signal word "Warning" or "Danger" shall not be used on the Premises. Any violation of this requirement shall constitute a breach of this Lease, and Lessee shall be responsible for any remediation or mitigation required as a result of the violation as provided in Section 17.3.

Under State and Federal law, a pesticide is any substance intended to control, destroy, repel, or otherwise mitigate a pest. Lessee shall ensure that all pesticides and other agricultural chemicals used on the Premises are used in accordance with applicable product labeling and all applicable federal, state, and local laws and regulations, including those administered by the California Department of Pesticide Regulation and the County Agricultural Commissioner. Lessee shall obtain all required permits, licenses, and authorizations before using any product for which they are required.

(b) Pest Management. Lessee shall, at its sole expense, implement Integrated Pest Management (IPM) strategies to prevent, monitor, and control noxious and undesirable weeds, rodents, insects, and other pests on the Premises. Pest management decisions shall be based on pest identification, monitoring, and an assessment of the need for control. Pesticides shall be used only when necessary and appropriate as part of an IPM strategy, with preference

given to effective nonchemical control methods when feasible. Lessee shall comply with all applicable federal, state, and local environmental laws and regulations governing pest management activities and pesticide use, including obtaining all required permits.

(c) Predator Control. Lessee and its employees and agents shall not use poisons, poison baits, "coyote-getters," or similar devices on the Premises. Poisoning predators is prohibited. Lessee shall obtain the County's prior written consent before undertaking any other lawful predator control or depredation activities, including trapping or shooting.

(d) Fire Prevention. Lessee shall take all measures as may be directed by County as necessary to prevent fires. In the event that a Red Flag Warning is posted by the National Oceanic and Atmospheric Administration (NOAA), Lessee shall comply and enforce Department of Parks and Recreation Policy C-33, Campfires and Open Flames.

(e) Tree Protection and Maintenance. Lessee shall not prune, cut, damage, remove, or otherwise alter any growing or mature tree on the Premises without the County's prior written consent. Any approved tree work shall be performed in accordance with the County's conditions and applicable laws and regulations.

(f) Hold Harmless; Flood Damage and Other Acts of God. Lessee agrees and acknowledges that the Premises is located in a floodway and therefore subject to flooding and flood damage to the Premises. The Lessee assumes use of the Premises at Lessee's own risk and all risk of any and all damages resulting from flooding or extreme weather conditions or other natural causes. Lessee agrees and acknowledges that any damages resulting from flooding or other causes shall not result in any liability to the County. Lessee shall assume the defense of, indemnify and hold the County harmless from any damages resulting from flooding or other causes. Lessee agrees and acknowledges that County shall have no obligation to construct or maintain channels or to construct, maintain or operate reservoirs or release water from reservoirs in such a way as to control, alleviate or minimize potential damages to the Premises. Lessee understands that its proposed use of the Premises should contemplate the floodway aspect of the Premises and not interfere with the Premises' established drainage. Lessee shall comply with all City of San Diego regulations regarding improvement or development projects within a floodway.

(g) County Noise Regulations. No person shall disturb the peace and quiet of a County park by any loud or unusual noise, or by the sounding of automobile horns or noise-making devices, or by the use of profane, obscene, or abusive language or gestures. No person shall use, transport, carry, fire, or discharge any fireworks, firearm, weapon, air gun, archery device, slingshot, or explosive of any kind across, in, or into a County park.

(h) Pets. No pets, livestock or animals of any kind or character whatever may be kept on said Premises without the prior written consent of the Director or their designated representative, which consent may be approved, denied, withheld or conditioned at County's sole discretion. Dogs must be licensed, restrained on a leash not longer than six feet, and attended and controlled at all times.

(i) Lighting Standards. All outdoor lighting on the Premises shall conform to San Diego County Code, Title 5, Division 1, Chapter 2 Light Pollution ("Lighting Standards"), including the Zone B lamp type and shielding requirements, which may be revised from time-to-time during the Term. Lessee shall ensure that all outdoor lighting (whether to be installed or replaced) on the Premises, is in compliance with the Lighting Standards.

(j) Lessee and Lessee's agents, volunteers, employees, guests, invitees, and sublessees shall comply with, and Lessee shall enforce the provisions of County Department of Parks and Recreation Watershed Protection Policy which may be amended, revised, supplemented or replaced from time to time during the Term. By initialing in the space below, Lessee is in receipt of a copy and has read the "Watershed Protection Ordinance" handbook").

Lessee's Initials: _____ Lessee's Initials: _____

22.3 Records, Accounts, and Audits. Lessee shall, at all times during the Term of this Lease, keep or cause to be kept true and complete books, records, and accounts ("Accounting records") of all financial transactions in the operation of all business activities conducted on the Premises. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices or other pertinent documents. All Lessee's books, accounts and records shall meet general accepted accounting principles and be kept and made available to County at one location within the limits of the County of San Diego. County shall have the right at any reasonable time to examine and perform audits of Lessee's records pertaining to its operations on the Premises. The cost of the audits shall be borne by County; however, Lessee shall provide to County, at Lessee's sole expense, all necessary data to enable County to fully comply with its audit.

22.4 Drug and Alcohol Use. In accordance with the County Board of Supervisors Policy C-25, County of San Diego Drug and Alcohol Use Policy ("Policy C-25"), neither Lessee nor its employees, while performing services for Lessee on County property or using Lessee's equipment, shall be in any way impaired because of being under the influence of alcohol or a drug, shall possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug, nor shall sell, offer or provide alcohol or a drug to another person. Lessee acknowledges receipt of Policy C-25, which may be revised from time to time during the Term of this Lease.

22.5 Smoking Prohibition. No person shall carry a lighted pipe, cigar, cigarette, electronic smoking device or other smoking device, containing tobacco or any other substance, or light a pipe, cigar or cigarette, electronic smoking device or other smoking device containing tobacco or any substance on the Premises.

22.6 Affiliation. Lessee acknowledges that Lessee is an independent organization and is not affiliated with any County department or division.

ARTICLE 23
GENERAL PROVISIONS

23.1 Authority and Legal Status. Lessee represents and warrants that it has full power and authority to execute and fully perform Lessee's obligations under this Lease pursuant to Lessee's governing instruments, without the need for any further action, and that the person(s) executing this Lease on behalf of Lessee are the duly designated agents of Lessee and are authorized act on behalf of Lessee.

23.2 Brokers. Lessee warrants that Lessee has had no dealings with any real estate broker or agent in connection with the negotiation and/or execution of this Lease. To the fullest extent permitted by law and in addition to and without limiting Lessee's indemnification obligations in Section 12.1, if any broker makes a Claim for monies owed, Lessee shall indemnify, defend and hold County harmless from the Claim.

23.3 Captions. The captions, headings and table of contents appearing in this Lease are inserted for convenience only and in no way define, limit, construe, or describe the scope or intent of the provisions of this Lease.

23.4 Lease Administration. This Lease shall be administered on behalf of County by the Director, Department of General Services or a designee (the "County's Lease Administrator"), and on behalf of Lessee by _____or by another person designated in a written Notice by Lessee (the "Lessee's Lease Administrator").

23.5 County Consent. Except where stated in this Lease to the contrary, the phrases "County's consent" and "County's written consent" or similar phrases shall mean consent from the County's Lease Administrator.

23.6 Lessee's Lease Administration. Lessee confirms that Lessee's Lease Administrator has been given full operational responsibility for compliance with the terms of this Lease. Lessee shall provide County with a written schedule of Lessee's normal hours of business operation on the Premises, and Lessee's Lease Administrator or a representative designated by Lessee shall be (i) available to County on a twenty-four (24) hour a day, seven (7) days a week, basis, and (ii) present on the Premises during Lessee's normal business hours, to resolve problems or answer questions pertaining to this Lease and Lessee's operations on the Premises.

23.7 Business Days. The term "business days" as used in this Lease means any calendar day other than a Saturday, Sunday, or official County holiday.

23.8 Cumulative Remedies. If a default under this Lease occurs, each party's remedies shall be limited to those remedies set forth in this Lease. The remedies under this Lease are

cumulative and not exclusive of any other remedies under this Lease to which the non-defaulting party may be entitled.

23.9 Entire Agreement. This Lease, together with all addenda, exhibits and riders attached to this Lease, constitutes the entire agreement between County and Lessee with respect to the subject matter of this Lease, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded.

23.10 Estoppel Certificate. Lessee shall at any time during the term of this Lease, within five (5) business days of receipt of a written Notice from County, execute and deliver to County a statement in writing certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of the modification. Lessee's statement shall include other details requested by County, such as the date on which the Rent and other charges are paid, the current ownership and name of Lessee, Lessee's knowledge concerning any outstanding defaults with respect to County's obligations under this Lease and the nature of any defaults. Lessee's statement may be relied upon conclusively by any prospective purchaser or encumbrancer of the Premises. Lessee's failure to deliver the statement within five (5) business days of receipt of a written Notice from County shall be conclusively deemed to mean that this Lease is in full force and effect, except to the extent any modification has been represented by County, that there are no uncured defaults in County's performance under this Lease, and that not more than one (1) installment of Rent has been paid in advance.

23.11 Force Majeure. If County or Lessee is prevented or delayed from performing any act or discharging any obligation under this Lease, except for any payment obligation of Lessee, because of any and all causes beyond either party's reasonable control, including unusual delays in deliveries, abnormal adverse weather conditions, unavoidable casualties, strikes, labor disputes, inability to obtain labor, materials or equipment, acts of God, any hostile government actions, civil commotion and fire or other casualty, legal actions attacking the validity of this Lease or Lessee's occupancy of the Premises, or any other casualties beyond the reasonable control of either party except casualties resulting from Lessee's negligent operation or maintenance of the Premises ("Force Majeure"), performance of the act shall be excused for the period of the delay, and the period for performance of the act shall be extended for a period equivalent to the period of the delay. Force Majeure shall not include any bankruptcy, insolvency, or other financial circumstances of Lessee.

23.12 Governing Law. This Lease shall be governed, construed and enforced in accordance with the laws of the State of California.

23.13 Interpretation. The language of this Lease shall be construed simply according to its plain meaning and shall not be construed for or against either party.

23.14 Joint and Several Liability. If more than one person or entity executes this Lease as Lessee, each of them is jointly and severally liable for all of the obligations of Lessee under this Lease.

23.15 Liquidated Damages. Any payments by Lessee to County under this Lease described as liquidated damages represent the parties' reasonable estimate of County's actual damages under the described circumstances, the actual damages being uncertain and difficult to ascertain in light of the impossibility of foreseeing the state of the leasing market at the time of the various deadlines set forth in this Lease. County may, at County's election, take any of the liquidated damages assessed in any portion of this Lease as direct monetary payments from Lessee and/or as an increase of Rent due from Lessee under this Lease.

23.16 Modification. The provisions of this Lease may not be modified, except by a written instrument signed by County and Lessee.

23.17 Partial Invalidity. If any provision 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 by the determination. Each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

23.18 Payments. Except as otherwise be expressly stated in this Lease, each payment required to be made by Lessee shall be in addition to, and not a substitute for, other payments to be made by Lessee under this Lease.

23.19 Successors and Assigns. This Lease shall be binding on and inure to the benefit of County and Lessee and their successors and assigns, except as may otherwise be provided in this Lease.

23.20 Time of Essence. Time is of the essence for each and every provision of this Lease.

23.21 Waiver. No provision of this Lease or the breach of any provision of this Lease shall be deemed waived, except by written consent of the party against whom the waiver is claimed. The waiver by County of any breach of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of the term, covenant or condition of any subsequent breach of the term, covenant or condition, or of any other term, covenant or condition contained in this Lease. County's subsequent acceptance of partial Rent or performance by Lessee shall not be deemed to be an accord and satisfaction or a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease or of any right of County to a forfeiture of the Lease by reason of the breach, regardless of County's knowledge of the preceding breach at the time of County's acceptance. The failure on the part of County to require exact or full and complete compliance with any term, covenant, or condition of this Lease shall not modify or waive the term, covenant or condition, or estop County from any related enforcement. No custom or practice that may arise between County and Lessee in the course of administering this Lease shall be construed to waive, estop or in any way lessen County's right to insist upon Lessee's full performance of, or compliance with, any term, covenant or condition of this Lease by Lessee, or to inhibit or prevent County's exercise of County's rights with respect to any default, dereliction or breach of this Lease by Lessee.

23.22 Singular and Plural. Words used in this Lease in the singular, where the context so permits, shall be deemed to include the plural. Words used in this Lease in the plural, where the context so permits, shall be deemed to include the singular.

23.23 Counterparts; Electronic Transmittal; Electronic Signatures. This Lease may be executed in counterparts, and County and Lessee agree that each counterpart shall constitute one agreement binding on County and Lessee, notwithstanding that County and Lessee are not signatory to an original or same counterpart. Executed counterparts of this Lease may be transmitted electronically, and County and Lessee agree that each counterpart of a fully executed Lease transmitted electronically via pdf attachment shall be binding as if the signatures transmitted electronically were original signatures. This Lease may be executed using electronic signatures, and County and Lessee agree that each electronic signature shall have the same legal effect and enforceability as a manually executed signature to the extent provided for in the Uniform Electronic Transactions Act codified in State of California Civil Code Sections 1633.1 - 1633.17.

THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK
THE SIGNATURES ARE ON THE FOLLOWING PAGE

SIGNATURES

County and Lessee have duly executed this Lease as of the day and year written below. This Lease shall be effective as of the date of its execution by County's Director of the Department of General Services.

Lessee: _____
a _____ Corporation

By: _____
[Name]
Title: _____
Date: _____

By: _____
[Name]
Title: _____
Date: _____

County: County of San Diego,
a political subdivision of the State of California

By: _____
Marko Medved, P.E., CEM, Director
Department of General Services

Approved as to form and legality:

By: _____
_____,
Senior Deputy County Counsel

EXHIBIT "A"
DESCRIPTION OF PREMISES
Location Map

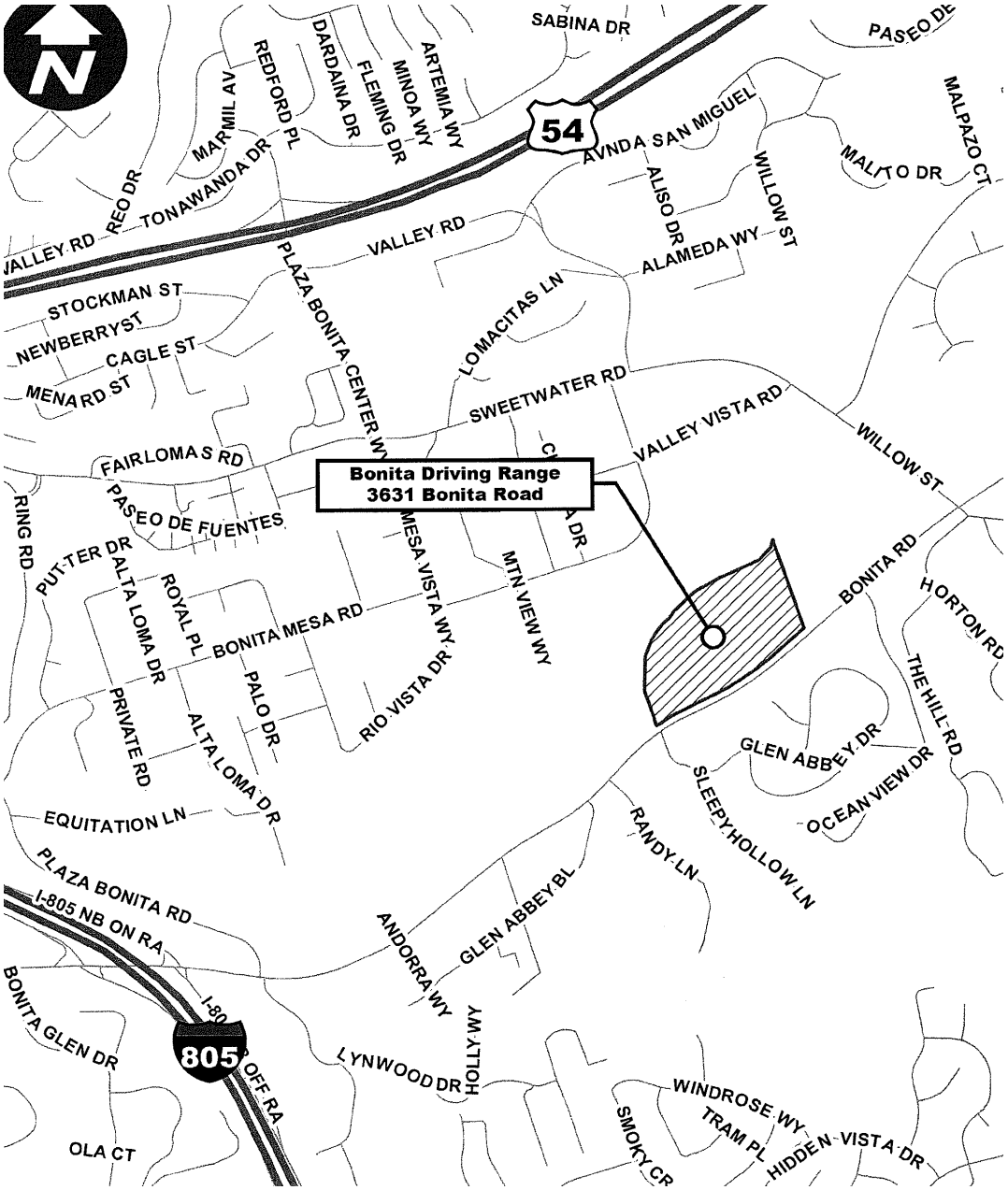


EXHIBIT "A"
DESCRIPTION OF PREMISES
Site Map

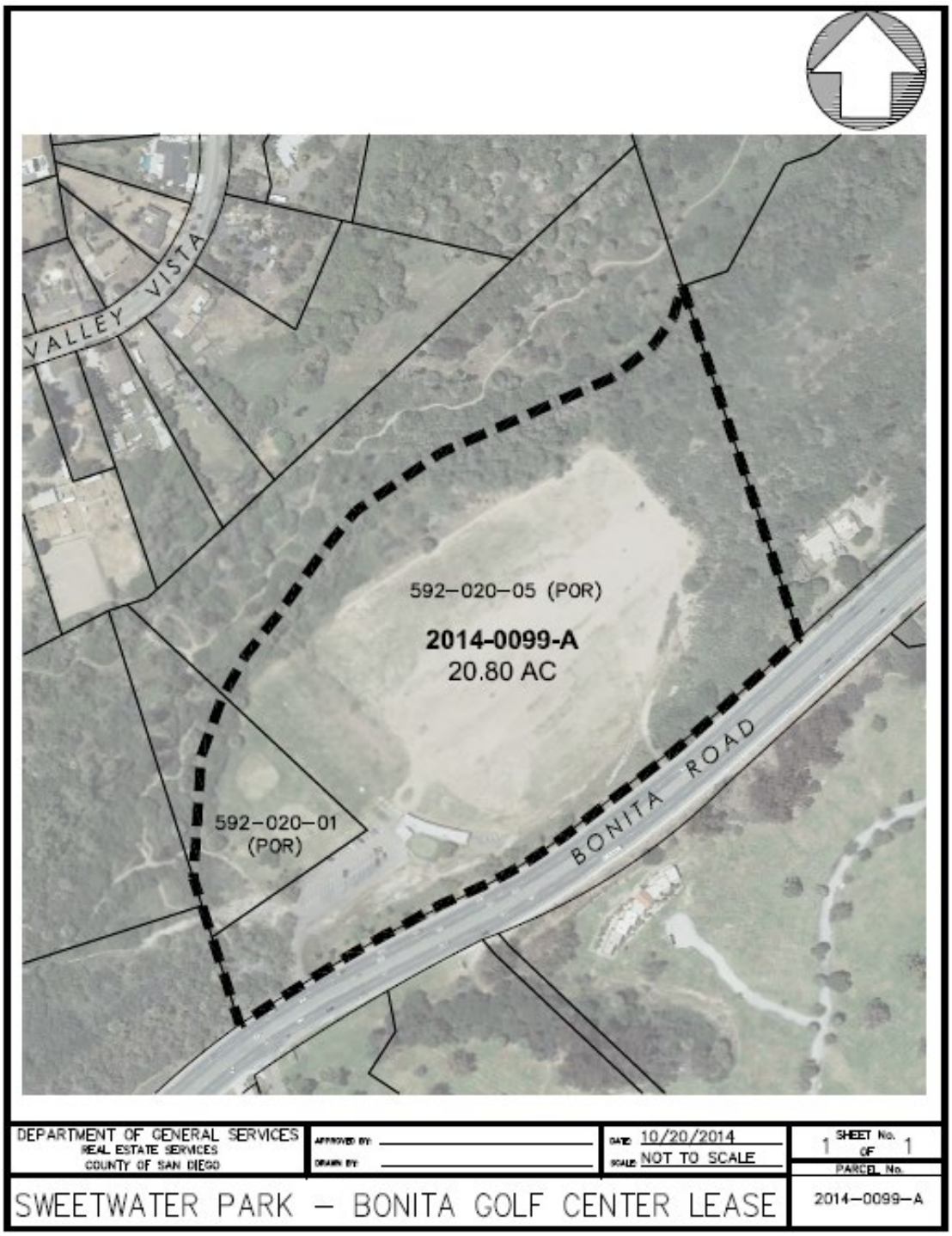


EXHIBIT "B"
INSURANCE REQUIREMENTS

In addition to and without limiting Lessee's indemnification obligations in Section 12.1 of this Lease, Lessee shall provide and maintain during the Term and for any other period required in this Lease, at Lessee's sole expense, the insurance described in this EXHIBIT "B" for use against Claims (defined in Section 12.1) for injuries to persons or damages to property which may arise from or in connection with Lessee's operation and use of the Premises.

1. Minimum Scope and Limits of Insurance

Coverage shall be at least as broad as:

A. Commercial General Liability (CGL). Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than two million dollars ($2,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit four million dollars ($4,000,000).

B. Automobile Liability. Automobile Liability covering all owned, non-owned, hired auto Insurance Services Office form CA0001, with limit no less than one million dollars ($1,000,000) each accident for bodily injury and property damage.

C. Workers' Compensation. Workers' Compensation, as required by State of California and Employer's Liability Insurance, with limits no less than one million dollars ($1,000,000) each accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of County of San Diego.

D. Property Insurance. Property Insurance (ISO Form CP 00 40) against all risk or special form perils, including Replacement Cost coverage, without deduction for depreciation, for Lessee's merchandise, fixtures owned by Lessee, any items identified in this Lease as improvements to the Premises constructed and owned by Lessee, and the personal property of Lessee, its agents and employees.

E. Rental Income Insurance. Rental Income Insurance assuring County of receiving the minimum monthly rent from the time the Premises are damaged or destroyed with a minimum period of coverage for one (1) year.

If Lessee maintains broader coverage and/or higher limits than the minimums stated above, County requires and shall be entitled to the broader coverage and/or higher limits maintained by Lessee. As a requirement of this Lease, any available insurance proceeds in excess of the specified minimum limits and coverage stated above, shall also be available to County.

2. Self-Insured Retentions

Self-insured retentions must be declared to and approved County Risk Management. County may require the Lessee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County. Any and all deductibles and SIRs shall be the sole responsibility of Lessee or sublessees who procured such insurance and shall not apply to the County. County may deduct from any amounts otherwise due Lessee to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that defense costs, including the allocated loss adjustment expenses, will satisfy the SIR or deductible. County reserves the right to obtain a copy of any policies and endorsements for verification.

3. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

A. Additional Insured Endorsement. The County of San Diego, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively are to be covered as additional insureds on the General Liability policy with respect to liability arising out of work or operations performed by or on behalf of Lessee including materials, parts, or equipment furnished in connection with the work or operations. General Liability coverage can be provided in the form of an endorsement to Lessee's insurance (at least as broad as ISO form CG 2010 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

B. Primary Insurance Endorsement. For any Claims related to this Lease, Lessee's insurance coverage, including any excess liability policies, shall be primary and non-contributory at least as broad as ISO CG 20 01 04 13 as respects the County, the members of the Board of Supervisors of the County and the officers, agents, employees and volunteers of the County, individually and collectively. Any insurance or self-insurance maintained by the County, County's officers, employees, or volunteers shall be excess of Lessee's insurance and shall not contribute with Lessee's insurance.

C. Notice of Cancellation. Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

D. Legal Liability Coverage. The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the Premises.

General Provisions

4. Qualifying Insurers

All required policies of insurance shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A, VII according to the current Best's Key Rating guide, or a company of equal financial stability that is consented to in writing by County Risk Management, which consent may be withheld at County's sole discretion.

5. Umbrella or Excess Policy

Lessee may use Umbrella or Excess Policies to provide the liability limits as required in this Lease. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages required in this Lease, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered in such Umbrella or Excess Policies, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

6. Evidence of Insurance

Prior to the Commencement Date of this Lease, Lessee shall furnish County with a copy of the policy declaration and endorsement pages along with the certificates of insurance and amendatory endorsements effecting coverage required by this Lease. Policy declaration and endorsement pages shall be included with renewal certificates and amendatory endorsements submissions and shall be furnished to County within thirty (30) days of the expiration of the term of any required policy. Lessee shall permit County at all reasonable times to inspect any required policies of insurance. The County Contract Number should be noted in the "Description of Operations" box located near the bottom of the form. Additionally, the "Certificate Holder" box should designate the address of the responsible department or department representative to ensure the documents are received by the appropriate party.

7. Failure to Obtain or Maintain Insurance; County's Remedies

The occurrence of one or more of the following events shall constitute a default by Lessee and a breach of this Lease:

a. Failure to provide the insurance specified in this Lease.

b. Failure to furnish certificates of insurance and amendatory endorsements.

c. Failure to make the premium payments required by the insurance.

If a breach of the any of the foregoing requirements occurs, County shall have the remedies provided in Section 2.4 Lessee Default; County Remedies; Termination of Lease of this Lease.

8. No Limitations of Obligations

The foregoing insurance requirements as to the types and limits of insurance coverage to be maintained by Lessee, and any approval of the insurance by County are not intended to and shall not in any way limit or qualify the liabilities and obligations otherwise assumed by Lessee pursuant to this Lease, including, but not limited to, the provisions concerning indemnification.

9. Review of Coverage

County retains the right at any time to review the coverage, form and amount of insurance required in this Lease and may require Lessee to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

10. Self-Insurance

Lessee may, with the prior written consent of County's Risk Management, which consent may be withheld at County's sole discretion, fulfill some or all of the insurance requirements contained in this Lease under a plan of self-insurance. Lessee shall only be permitted to utilize self-insurance if in the opinion of County's Risk Management, Lessee's (i) net worth, and (ii) reserves for payment of Claims of liability against Lessee, are sufficient to adequately compensate for the lack of other insurance coverage required by this Lease. Lessee's utilization of self-insurance shall not in any way limit or qualify the liabilities and obligations assumed by Lessee under this Lease, including, but not limited to, the provisions concerning indemnification.

11. Sublessees' Insurance

Lessee shall require and verify that all sublessees maintain insurance meeting all requirements stated in this Lease, and Lessee shall ensure that entity is an additional insured on insurance required from sublessees. For CGL coverage, sublessees shall provide coverage with a form at least as broad as CG 20 38 04 13. If any sublessee's coverage does not comply with the foregoing provisions, Lessee shall defend and indemnify County from any damage, loss, cost, or expense, including attorneys' fees, incurred by County as a result of sublessee's failure to maintain required coverage.

12. Waiver of Subrogation

Lessee hereby grants to County a waiver of their rights of subrogation which any insurer of Lessee may acquire against County by virtue of the payment of any loss. Lessee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.