

Attachment B

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**AMENDMENT NO. 2
TO OPERATION AND MANAGEMENT AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
RRM-CLM SERVICES, LLC**

THIS AMENDMENT NO. 2 to the Operation and Management Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "COUNTY") and RRM-CLM Services, LLC (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, Urban Parks Concessionaires, dba Monterey Lakes Recreation Company (hereinafter, "UPC") entered into an Agreement with COUNTY on July 29, 2019 (hereinafter, "Agreement") to provide facility management services on behalf of the COUNTY for the area of operations under COUNTY control at Lake Nacimiento ("Park"), and other services as described in the Agreement;

WHEREAS, the Agreement was amended by UPC and COUNTY on February 4, 2022 to add a contractor-owned rental vessel fleet at the Park (Hereinafter, "Amendment No. 1");

WHEREAS, the Parties executed an Assignment & Assumption Agreement dated March 1, 2022, to transfer the Agreement from UPC to CONTRACTOR; and

WHEREAS, the Parties wish to amend the Agreement to update insurance provisions related to the Park fuel storage system.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Add Section 7.3.6.1 to read as follows:

Contractor Pollution Liability Insurance excludes the two (2) existing underground storage tanks and connected fuel lines and dispensers located in the Park near the Ranger Office/Mail Launch Ramps.

2. Add Section 6.3 to read as follows:

County shall indemnify, defend, and hold harmless CONTRACTOR, its officers, agents and employees, from and against any and all third-party claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) to the extent that such claims, liabilities or losses whatsoever are caused by or arise out of the negligence or willful misconduct of County, including its employees, other contractors, or agents, related to the two (2) existing underground storage tanks and connected fuel lines and dispensers located in the Park near the Ranger Office/Main Launch Ramps. In addition, County shall indemnify, defend, and hold harmless CONTRACTOR, its officers, agents and employees, from and against any and all third-party claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) to the extent that such claims, liabilities or losses whatsoever

- are caused by or arise out of leakage of known or unknown substances from the two (2) underground storage tanks or connected fuel lines and dispensers.
3. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
 4. This Amendment No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
 5. This Agreement may be executed in several counterparts and as so executed shall constitute one and the same agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart. Electronic copies shall be enforceable as originals.
 6. The parties to the Amendment consent to the use of electronic signatures via DocuSign to execute this Amendment. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. section 7001 et seq.; California Government Code Section 16.5; and California Civil Code section 1633.1 et seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this Amendment hereby authenticate and execute this amendment, and any and all Exhibits to this Amendment, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF) . Each person signing below represents to the other party that they are authorized to sign this Amendment and bind their respective companies to fulfill the obligations contained herein. Nothing in this Amendment is intended to create any rights in or confer any benefits upon any person or entity other than the parties to this Amendment.
 7. If any provision of this Amendment, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of Amendment, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.
 8. The recitals to this Amendment No. 2 are incorporated into the Agreement and this Amendment No. 2.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: _____
Contracts/Purchasing Officer

RRM-CLM SERVICES, LLC

Contractor's Business Name

Date: _____

By: WARREN MEYER

DocuSigned by:
(Signature of Chair, President or Vice President)

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

Its: WARREN MEYER President

(Print Name and Title)

By: Michael J. Whilden

DocuSigned by:
Michael Whilden
Deputy County Counsel

Date: 9/2/2022 | 1:50 PM PDT

Date: _____

By: Richard Bayer

DocuSigned by:
Richard Bayer
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: Richard Bayer Chief Financial Officer

(Print Name and Title)

Approved as to Fiscal Provisions

By: Jennifer Forsyth

DocuSigned by:
Auditor/Controller

Date: 9/2/2022 | 1:54 PM PDT

Date: _____

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel
Leslie J. Girard, County Counsel

By: Danielle Mancuso

DocuSigned by:
Danielle P. Mancuso
Risk Manager

Date: 9/13/2022 | 1:20 PM PDT

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

This Operation and Management Agreement (“Agreement”) dated August 1, 2019 is between the County of Monterey, hereinafter referred to as “COUNTY” and Urban Parks Concessionaires, dba Monterey Lakes Recreation Company, hereinafter referred to as “CONTRACTOR” (collectively, the “Parties”, or individually, “Party”)

RECITALS

WHEREAS, in 1957, Nacimiento Dam was completed creating a reservoir, commonly referred to as Lake Nacimiento, with the purpose of providing water to the Salinas Valley; and

WHEREAS, in 1967, San Antonio Reservoir (Lake San Antonio) was created, also with the purpose of providing water to the Salinas Valley; and

WHEREAS, the reservoirs are owned and operated by the Monterey County Water Resources Agency; and

WHEREAS, in 1969 and 1987, Monterey County Water Resources Agency (MCWRA) and County of Monterey (COUNTY) entered into leases for COUNTY to use the reservoirs for recreational purposes as water is available; and

WHEREAS, recreational opportunities are impacted by the annual weather cycle need to increase water conservation and flood protection in the Salinas Valley, proper maintenance of the Salinas River, recreational benefits, endangered species management, and compliance with state and federal regulations; and

WHEREAS, Lake Nacimiento reservoir was built, maintained and operated for the purpose of water conservation and flood control, regardless of any statements recorded or documented to the contrary.

WHEREAS, On October 1, 2007, COUNTY took ownership of assets from Water World Resorts, Inc. and Lake San Antonio Resorts, Inc., including both real and personal property at Lake San Antonio and Lake Nacimiento, as authorized by the Board of Supervisors on July 24, 2007; and

WHEREAS, on April 22, 2008, COUNTY executed an interim management agreement with Forever Resorts, LLC to operate the resort business operations at the Parks which included marinas, stores, restaurants, fueling facilities, lodging units, and boat rentals, and said agreement was amended to extend through April 23, 2011; and

WHEREAS, on May 3, 2011, COUNTY entered into an Agreement with Urban Park Concessionaires to operate recreational facilities at Lake San Antonio and Lake Nacimiento, through October 31, 2012, and said agreement was amended to extend through January 31, 2015; and

WHEREAS, on July 6, 2016, COUNTY entered into a new management agreement with Urban Park Concessionaires to operate recreational facilities at Lake San Antonio and Lake Nacimiento for a period retroactive to January 31, 2015, and said agreement has been extended through February 28, 2019 [Agreement numbers A-13136, A-11984, A-11983]; and

WHEREAS, on February 22, 2018, COUNTY released a Request for Proposals (RFP #10674) for Facility Management Services to manage Lake San Antonio and Lake Nacimiento, which invited proposals to completely manage both facilities; and

WHEREAS, on April 10, 2018, CONTRACTOR submitted a responsive and responsible proposal to perform such services; and

WHEREAS, on January 15, 2019, COUNTY Board of Supervisors provided direction to pursue an agreement to manage Lake Nacimiento and for COUNTY to assume management of Lake San Antonio; and

WHEREAS, COUNTY wishes to grant a partial award to CONTRACTOR to manage park operations at Lake Nacimiento on behalf of and at the direction of the County, and transition operations at Lake San Antonio from CONTRACTOR to COUNTY; and

WHEREAS, it is the objective of COUNTY to operate the park facilities at Lake Nacimiento in a self-sustaining manner, free from the need for outside funds and subsidies, and with a focus on business-minded decisions that will positively impact the profitability of the park for the COUNTY while meeting all local, state and federal laws and regulations; and

WHEREAS, CONTRACTOR warrants it has the expertise and capabilities necessary to provide the services requested and follow COUNTY's operational objectives for the Lake Nacimiento park facilities; and

NOW THEREFORE, the COUNTY and CONTRACTOR agree as follows:

AGREEMENT

SECTION I – SCOPE OF OPERATIONS AND ADMINISTRATION

1. **Recitals.** The above recitals are hereby incorporated into the body of this Agreement by reference.
2. **Performance of the Agreement.** After consideration and evaluation of the CONTRACTOR's proposal, the COUNTY engages CONTRACTOR to provide the services set forth in RFP #10674 and in this Agreement on the terms and conditions contained herein and in RFP #10674. The Agreement is based on the following documents:

Agreement

RFP #10674 dated February 22, 2018, including all attachments and exhibits

These Documents are on file with the COUNTY Contractor/Purchasing Division.

- 2.1. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order: Agreement, including all attachments and exhibits, RFP #10674
- 2.2. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the COUNTY.
 - 2.2.1. CONTRACTOR shall obtain and maintain during the term of this Agreement its California Qualified Applicator License as required to perform herbicide and pesticide spraying activities identified in this Agreement, within one (1) year of the execution of this Agreement. COUNTY may extend the deadline on its sole determination that CONTRACTOR has made a good-faith effort to obtain such license, and additional time is warranted.
- 2.3. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
3. **Term of Agreement.** The term of this Agreement is from August 1, 2019 through and including December 31, 2026, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and COUNTY with the COUNTY signing last, and CONTRACTOR may not commence work before COUNTY signs this Agreement.
 - 3.1. If a material breach of any material provision of this Agreement by either Party (COUNTY or CONTRACTOR) occurs, the defaulting Party shall have sixty (60) days after written notice thereof is received by the Party against whom the default is claimed to cure the default or initiate good faith efforts to cure such breach to the reasonable satisfaction of the non-breaching Party.
 - 3.2. If the material breach is not cured within the sixty (60) day notice period, the non-defaulting Party may terminate this Agreement upon thirty (30) days prior written notice to the defaulting Party.

- 3.3. The COUNTY is granted authority to operate recreational facilities at Lake Nacimiento under the terms of a 1987 lease, adopted by COUNTY Board of Supervisors resolution No. 87-424 (Nacimiento Lease). The Nacimiento Lease may be terminated with 6-months' notice via a Resolution of Intention by the COUNTY or MCWRA Board of Supervisors.
 - 3.3.1. This Agreement shall terminate, upon termination of the Nacimiento Lease and removal of COUNTY responsibility for recreational facilities by either the COUNTY or MCWRA Board of Supervisors.
 - 3.3.2. COUNTY shall have the right, upon any enacted change in term to the Nacimiento Lease or execution of a new lease by the COUNTY Board of Supervisors for COUNTY operation of recreational facilities at Lake Nacimiento, to renegotiate the terms of this Agreement in good faith with CONTRACTOR, to accommodate the terms of the new lease.
- 3.4. COUNTY shall have the right, after two consecutive Fiscal Years of a negative Adjusted Net Income as defined in Section 21.2, excluding Ranger Costs as requested by the supervising Park Ranger, to renegotiate the terms of this Agreement in good faith with CONTRACTOR to maintain financial sustainability.
- 3.5. If COUNTY and CONTRACTOR are unable to renegotiate terms under Sections 3.3.2 or 3.4 above, the County shall have the right to terminate this agreement upon sixty (60) days written notice to CONTRACTOR.
4. **Exhibits.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:
 - Exhibit A: County and Contractor Maintenance and Repair Assignments
 - Exhibit B: Vehicle Lease Agreement
 - Exhibit C: Request for Proposal #10674
 - Exhibit D: CONTRACTOR's Response to RFP #10674
5. **Scope of Operations.** The COUNTY hereby hires CONTRACTOR to provide facility management services on behalf of the COUNTY for the area of operations under COUNTY control at Lake Nacimiento, ("Park"). Management services consist of providing services including but not limited to supplies, staff, equipment, permits, licenses and materials required for the maintenance, operation and administration of the Park with the purpose of increasing net revenue for the COUNTY. All services provided by CONTRACTOR under this agreement are subject to the direction and approval of the COUNTY. This Agreement shall replace agreement No. 11983 under which CONTRACTOR and COUNTY have operated since February 1, 2015, and such agreement is hereby terminated.

- 5.1. This Agreement is a contract for management services only and is not to be considered or interpreted as a lease for any purpose. This Agreement confers only permission to occupy and use the Park for management purposes in accordance with the terms and conditions of this Agreement. The expenditure by CONTRACTOR of capital and/or labor in the course of operation and management of the Park shall not confer to CONTRACTOR any interest in the Park except as provided herein.
- 5.2. COUNTY and CONTRACTOR may, upon mutual agreement, determine that a specific operation, facility or service should be suspended or terminated if it does not provide value to the Parties, and contribute to the overall profitability of the Park. Mutual agreement shall be in the form of a written notice signed by the Resource Management Agency (RMA) Director or Deputy Director(s) and CONTRACTOR. Regardless of any individual suspension or termination, the terms of the agreement shall continue to apply to all remaining operations.
 - 5.2.1. The Parties shall cooperate to achieve mutual agreement on operations of the Lake Nacimiento park facilities with the goal of keeping the Park profitable. CONTRACTOR shall provide COUNTY with documentation showing how the operations, facility or service in question will contribute to the profitability of the Park, or how untimely closure will negatively affect current operations. COUNTY will take CONTRACTOR's proposal into consideration; however, COUNTY reserves all discretionary authority to determine if a specific operation, facility or service should remain active. If CONTRACTOR satisfactorily demonstrates that termination or suspension of a specific operation, facility or service will result in necessary reduction in CONTRACTOR staff, COUNTY shall provide CONTRACTOR with notice ninety (90) days prior to the termination or suspension taking effect.
- 5.3. **Notices.** Any notice pursuant to this Agreement shall be given in writing by a Party or its legal representative by (a) personal delivery, (b) overnight delivery service with proof of delivery, (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested sent to the intended addressee at the address set forth below, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance with this section, and shall be deemed to have been given either at the time of personal delivery, or, in the case of expedited delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

For the COUNTY:
Administrative Operations Manager
Resource Management Agency
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

For CONTRACTOR:
Basecamp Hospitality
2150 Main Street, Suite 5
Red Bluff, CA 96080

6. Indemnification.

- 6.1. CONTRACTOR shall indemnify, defend, and hold harmless the COUNTY and MCWRA, their officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses are determined to be solely caused by the gross negligence or willful misconduct of the COUNTY or MCWRA. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents, and subcontractors.
- 6.2. Neither COUNTY, MCWRA, nor CONTRACTOR will be liable for any delays or failures in performance due to circumstances beyond either Party's reasonable control or that may arise out of or become the result of the priority uses of the reservoir.

7. Insurance.

- 7.1. **Evidence of Coverage.** Prior to commencement of this Agreement, CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, CONTRACTOR upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to COUNTY'S Contracts/Purchasing Department, unless otherwise directed. CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by COUNTY. This approval of insurance shall neither relieve nor decrease the liability of CONTRACTOR.

- 7.2. **Qualifying Insurers.** All coverage's, except surety, shall be issued by companies 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 approved by COUNTY's Contracts/Purchasing Officer.

- 7.3. **Insurance Coverage Requirements.** Without limiting CONTRACTOR'S duty to Indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability
- 7.3.1. **Commercial general liability insurance**, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, and liquor liability with a combined single limit for Bodily Injury and Property Damage of not less than \$10,000,000 per occurrence.
- 7.3.2. **Business automobile liability insurance**, covering all motor vehicles, including owned, leased, on-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$5,000,000 per occurrence.
- 7.3.3. **Workers' Compensation Insurance**, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease and policy aggregate.
- 7.3.4. **Professional liability insurance**, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.
- 7.3.5. **Watercraft Liability Insurance, Protection and Indemnity Insurance** with limits not less than \$5,000,000 each occurrence combined single

limit for Bodily Injury and Property Damage; with respect to the ownership, operation and maintenance of all watercraft.

- 7.3.6. **Contractor Pollution Liability Insurance**, with limits not less than \$10,000,000 each incident/aggregate, with respect to Bodily Injury and Property Damage or Remediation Costs arising from new or pre-existing pollution incidents with a deductible not to exceed \$ 10,000 per incident.
- 7.3.7. **Liquor Liability**, Liquor Liability, with limits of not less than \$2,000,000 each occurrence.
- 7.4. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in the annual aggregate limit, such aggregate limit shall be double the occurrence/incident limits specified above.
- 7.5. Should any required Insurance lapse during the Agreement term; requests for payments originating after such lapse shall not be processed until COUNTY receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, COUNTY may, in Its sole discretion, terminate this Agreement effective on the date of such lapse of insurance, as a material breach of CONTRACTOR's obligations.:
- 7.6. Liability policies shall be endorsed (or otherwise certified) to provide the following: 1. Name as additional insured's, the COUNTY and MCWRA, and their officers, agents and employees; and 2. That such insurance is primary to any other insurance or self-insurance available to the additional insured's with respect to claims covered under the required policies and that coverage applies separately to each insured against whom claim is made or suit brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- 7.7. Commercial general liability, automobile liability, watercraft liability, contractor pollution liability, and liquor liability policies shall provide an endorsement naming the COUNTY, MCWRA, and their officers, agents, and employees as Additional Insured's with respect to liability arising out of CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by COUNTY and MCWRA and that the insurance of the Additional Insured's shall not be called upon to contribute to a loss covered by CONTRACTOR'S insurance.
- 7.8. All policies shall be endorsed to provide 30 days prior written notice (except 10 days for non-payment) of cancellation or endorsed reduction of coverage or limits to the following address:

County of Monterey
Contracts/Purchasing Division
1488 Schilling Place
Salinas, CA 93901

- 7.9. Prior to the execution of this Agreement by COUNTY, CONTRACTOR shall file certificates of insurance with COUNTY'S contract administrator and COUNTY'S Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this Agreement. CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. All insurers shall have a current A M Best rating of not less than A VII.
- 7.10. CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by COUNTY, annual certificates to COUNTY'S Contract Administrator and COUNTY'S Contracts/Purchasing Division. If the certificate is not received by the expiration date, COUNTY shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles COUNTY, at its sole discretion, to terminate this Agreement immediately.
8. **County Assets.** COUNTY shall provide CONTRACTOR the use of both the real and personal property ("Facilities") in the Park for providing, operating and maintaining Park operations. Facilities include all Park buildings, facilities and grounds/open space within the County-operated Park, unless designated by COUNTY in writing or identified in the approved Park Operations Plan as a County-managed facility (e.g., Ranger Station.) All real and personal property is provided to contractor in an "as is" condition with no warranty of any kind whatsoever by the COUNTY including but not limited to fitness for a particular use, and CONTRACTOR is deemed to have inspected and satisfied itself as to the actual condition of all such real and personal property.
9. **Hours and Operating Status.** CONTRACTOR shall operate the Park year-round under In-Season, Off-Season, or Standby status.
- 9.1. "In-Season" means the peak visitor season for the Park, defined as approximately May 1st through September 30th. "Off-Season" means the remainder of the year outside the In-Season period. "Standby" means the Park is closed to the public for a period greater than thirty (30) consecutive days.

- 9.2. CONTRACTOR shall establish dates for In-Season and Off-Season operation of the Park, subject to approval by the RMA Director or Deputy Director(s).
 - 9.3. CONTRACTOR shall establish daily Park operating hours, subject to the written approval of the RMA Director or RMA Deputy Director(s).
 - 9.4. All operation dates and times shall be included in the Park Operations Plan as described in Section 26.
 - 9.5. Contractor shall submit any proposed changes to the approved regular operating status and hours for approval in writing to the COUNTY RMA Director or Deputy RMA Director(s).
 - 9.6. Due to environmental, economic and/or other factors or conditions outside the control of the COUNTY, an emergency closure may be required by authority of the COUNTY, MCWRA, or any other federal, state or local authority having jurisdiction.
 - 9.7. COUNTY is not required to provide advanced notice of emergency closures; however, COUNTY shall notify CONTRACTOR as soon as reasonably possible but in no circumstance more than 1 hour following any such Park closure.
 - 9.8. COUNTY may reopen park after an emergency closure without providing an advance notice to CONTRACTOR.
 - 9.9. COUNTY may notify the CONTRACTOR in writing that the COUNTY has temporarily suspended specific administrative or operation requirements as a result of a Park closure.
- 10. Public Access, Reservations and Fees.** CONTRACTOR shall monitor and control the public's access to the Park. Responsibilities shall include receiving and recording all reservations for the Park, including phone, internet and on-site reservations, and issuing passes for entry and use of the Park.
- 10.1. CONTRACTOR shall maintain a count of all fees paid, reservations made by type, and attendance by zip code, and report the counts to the COUNTY on a monthly basis.
 - 10.2. All rates and charges to the public by CONTRACTOR for Park services will be reasonable and appropriate for the type and quality of facilities, equipment and products provided. Rates and charges require COUNTY approval as shown below:

Table 10 – Rate Approvals	
Director and Board of Supervisors Approval	Director or Designee Approval
Entry Fees Reservation Fees Facility use fees (boat launch, rentals, marina slip rates, etc.)	Retail Food and Beverage Special Event/Promotional Fees: <ul style="list-style-type: none"> - User Fees - Assignment of Cost to Permittee - Promotional Event Fees - Special Discount Programs and Promotions

- 10.3. CONTRACTOR shall submit all proposed rates and pricing changes to the COUNTY for review and approval by the RMA Director or designee as part of the Baseline update as detailed in Section 26.

- 10.4. County Access to Park. MCWRA has and maintains absolute entitlement to, use of, and release of all waters within the reservoir at Lake Nacimiento. MCWRA will from time to time as it solely deems necessary release or add water to the reservoir, and it is agreed MCWRA may do so without regard to the effect, if any, as to CONTRACTOR’s revenue, income or profit, whether gross or net.

- 10.5. COUNTY, in its sole discretion, reserves the right of use of Park facilities for official COUNTY business, at no cost, as long as such use does not substantially interfere or reduce existing revenue generating activities.

- 10.6. COUNTY, in its sole discretion, further reserves the right to use any occupied camping space and/or facility for official COUNTY business, and CONTRACTOR agrees to perform the administrative task of notifying and removing the current occupants at the soonest possible opportunity as provided by law. COUNTY agrees to pay CONTRACTOR the current rental rate for the space and/or facility for the remainder of the displaced occupant’s term of use, or the time reserved by the COUNTY, whichever is less. If COUNTY requires the use of facilities normally used by CONTRACTOR as office space, and such use will displace or interfere with CONTRACTOR staff in the performance of their duties, COUNTY shall provide a reasonably comparable facility for the duration of COUNTY’S use.

- 10.7. COUNTY may undertake improvements to the Park during the term of the agreement. The COUNTY will attempt to make those improvements in a manner that does not interfere with or unreasonably restrict public use of revenue generating facilities otherwise available to the extent feasible for on-going operations. CONTRACTOR expressly waives any and all claims for damages of any kind, including but not limited to, loss of profits as a result of any interruption

of business that may arise as a result of such improvements undertaken by the COUNTY.

11. **Alcoholic Beverage Sales.** COUNTY transferred three (3) State of California, Department of Alcoholic Beverage Control Licenses (hereinafter referred to as "Licenses"), for alcohol sales at the Park to CONTRACTOR under the previous agreement, identified as follows:

Permit #20-510912 Off Sale Beer and Wine Store
Permit #20-510903 Off Sale Beer and Wine Marina
Permit #41-540909 On Sale Beer and Wine Eating Place

- 11.1. Upon termination of the agreement, CONTRACTOR shall transfer Licenses to the COUNTY, subject to approval by the California Department of Alcoholic Beverage Control.
- 11.2. Revenue and cost of goods sold related to alcohol sales will be shown on the P&L.
12. **Staff.** CONTRACTOR shall provide all staff necessary to operate and maintain the Park as specified in this scope of work, to such an extent and in a manner considered satisfactory by COUNTY.
- 12.1. CONTRACTOR shall be responsible for human resources management of the Park operations. Human resources management will include recruiting, selection, hiring, retention, termination, and overall employee management. Employee benefits will be based on CONTRACTOR's employee benefit policy.
- 12.2. CONTRACTOR shall ensure that one of its employees, authorized by the CONTRACTOR to make operational decisions, lives within a radius of twenty-five 25 miles of the Park to allow prompt and appropriate response to the operational needs of the Park.
- 12.3. CONTRACTOR shall ensure that its staff assigned to work under this Agreement dress professionally and appropriately for their job in accordance with a dress code established by CONTRACTOR. and the terms of this Agreement. In the event of a conflict between CONTRACTOR's dress code and this Agreement, (e.g., CONTRACTOR branding on uniforms) the terms of this Agreement shall prevail.
- 12.4. CONTRACTOR staff shall not possess for personal use or consume alcohol while in uniform or providing services under this Agreement.
- 12.5. CONTRACTOR shall not use any COUNTY facilities for staff housing without prior written approval by the RMA Director or RMA Deputy Director(s).

13. CONTRACTOR Use of County Vehicles. COUNTY shall assign COUNTY Fleet vehicles, vessels and equipment to CONTRACTOR for use in Park operations.

13.1. CONTRACTOR shall require all staff assigned to Park or an Additional Service to sign waivers of liability as provided by the COUNTY for use of COUNTY vehicles.

13.2. The parties shall enter into a separate Lease Agreement (in a form substantially similar to that attached hereto as Exhibit B) for the lease from County to CONTRACTOR of specified personal property (vehicles and vessels identified therein) to be used by CONTRACTOR during the term of this Agreement. From time to time, the parties may agree in writing to update or modify the assets listed therein as necessary and appropriate. At the conclusion of this Agreement, the personal property shall be transferred back to COUNTY according to the terms of that Lease Agreement.

14. Additional Services. COUNTY and CONTRACTOR recognize that it may be mutually beneficial to coordinate additional CONTRACTOR or COUNTY support for operations at the Park or Lake San Antonio on a temporary basis. These Additional Services may include janitorial work and event staffing support for COUNTY-managed special events, short-term CONTRACTOR assistance to COUNTY staff at Lake San Antonio, or special use of COUNTY or CONTRACTOR resources in the repair or maintenance of the Park or Lake San Antonio on limited occasions, subject to prevailing wage and public bidding requirements. Additional Services are voluntary and neither Party is under any obligation to perform such services unless mutually agreed to in writing.

14.1. Any accepted Additional Services shall be agreed to in writing by CONTRACTOR and the RMA Director or Deputy Director(s) and shall include the scope of Additional Services to be provided, the staff, equipment and/or materials to be used, the length of time for the Additional Services to be provided, and the estimated cost.

14.2. CONTRACTOR shall submit to the COUNTY a rate sheet detailing costs to be charged for Additional Services. The rate sheet may be updated from time to time, with approval from the COUNTY, to reflect current staff salaries. All rates shall be on a "cost plus" basis consisting of base salary and an overhead percentage to be negotiated on a case by case basis and shall not include any other overhead charges.

14.3. Any costs associated with Additional Services shall be reimbursed on a time and materials basis and will not be included in any profit and loss calculation for the operations of the Park.

15. **Special Events.** All special events held at the Park will be managed through CONTRACTOR. All revenue and expenses, including COUNTY expenses associated with special events will be included in the Adjusted Net Income calculation.

15.1.1. For any event under one-thousand (1,000) people where CONTRACTOR is negotiating fees in accordance with Section 10.2, CONTRACTOR shall provide COUNTY with a notice of the event thirty (30) days prior to the event, or within three (3) days of receiving an event application if received less than thirty (30) days from the event date. If the event requires any additional permitting or contracting other than a reservation (e.g. ABC alcohol license, structure permit for tents, 3rd-party vendor agreements, etc.), CONTRACTOR shall coordinate with COUNTY to ensure all required permits are obtained prior to the event.

15.1.2. CONTRACTOR shall submit all special events requests with an estimated attendance greater than one thousand (1,000) and less than five thousand (5,000) people, including spectators, event volunteers and event employees to the RMA Director for review and express written approval. Per COUNTY Code Chapter 14.12, the RMA Director may add conditions of approval to ensure public health, safety and welfare, and prevent unreasonable impact or risk to the COUNTY. COUNTY shall not unreasonably withhold approval and shall provide notice of determination within ninety (90) days of submittal to COUNTY.

15.1.3. Per Monterey County Code Chapter 14.12, events with an estimated attendance of five thousand (5,000) people or more must be approved by the County Board of Supervisors. In such cases, CONTRACTOR shall include the COUNTY as the final signatory the event agreement, in a form acceptable to the COUNTY.

15.1.4. CONTRACTOR shall not permit event organizers, partners, attendees, or sponsors to store equipment, vehicles, machinery, or any other items used in the performance of an event at Park facilities, grounds or open space, beyond the term of the special event, unless given prior written approval by the RMA Director or Deputy Director(s). CONTRACTOR shall be solely liable for any COUNTY cost to remove any storage permitted by CONTRACTOR without COUNTY approval.

16. **Environmental Laws and Monitoring.** CONTRACTOR shall at all times in all aspects comply with all federal, state and local laws and regulations, and any amendments thereto affecting CONTRACTOR's operation on the Park, including all federal, state and local laws, ordinances and regulations relating to the environment and Hazardous Material.

- 16.1. As used herein, the term "Hazardous Material" includes, without limitation, any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States government. COUNTY shall be notified Within one (1) hour of any release or threatened release of any hazardous material.
- 16.2. CONTRACTOR shall notify COUNTY within 24 hours when an endangered species or species under federal, state or local protection such as the Bald Eagle is identified within the Park. CONTRACTOR shall coordinate with COUNTY to ensure all applicable laws and regulations are followed when responding to a protected species within the Park.
- 16.3. CONTRACTOR shall provide environmental risk mitigation services, environmental testing, enforcement and reporting as required by CONTRACTOR's operations and maintenance responsibility under the scope of this Agreement. Any work requiring California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) review will be considered COUNTY responsibility and will not be included in Operating Expenses.
- 16.4. CONTRACTOR shall comply with State, COUNTY and other regulatory requirements pertaining to water quality testing in recreational, water body areas for harmful algal blooms as per the State Water Board's Surface Ambient Monitoring Program, in coordination with the San Francisco Estuary Institute and the Cyanobacteria Assessment Network (CyAN), a joint project of the National Aeronautics and Space Administration (NASA), National Oceanic and Atmospheric Administration (NOAA), U.S. Geological Survey (USGS), and Environmental Protection Agency (EPA).
- 16.5. When conditions are optimal, including light, temperature, levels of nutrients, and lack of water turbulence, cyanobacteria and some algae can quickly multiply into a harmful algal bloom (HAB). CONTRACTOR shall begin monitoring activities including but not limited to visual inspections or water testing as required by the State Water Board prior to opening of the Park from Standby status or any time the Park is open to the Public.
- 16.6. CONTRACTOR shall perform water quality tests and submit reports to appropriate agencies as required by law and send electronic .pdf copies of all such reports to the COUNTY.

SECTION II – FINANCES AND ACCOUNTING

17. **Accounting System.** CONTRACTOR shall utilize an accounting system that follows generally accepted accounting practices. The accounting system shall be capable of providing information required by this scope of work and in final form acceptable to COUNTY. CONTRACTOR shall track and report revenues and expenses in a format

acceptable to the COUNTY that identifies costs by activity or facility category to determine which revenue streams make significant contributions to and which may detract from net income. Specifically, revenue and expenses shall be assigned to both Revenue Generating Activity and revenue/expense categories acceptable to COUNTY and substantially similar to the examples shown in Table 17 below:

Table 17 – Itemized Revenue and Expenses		
Revenue Generating Activity	Revenue Category	Expense Category
- Special Events, Tours, etc.	- Admission (Identified by type: vehicle, boat, etc.)	- Cost of Goods Sold
- Camping	- Alcohol	- Staff Time (by position)
- Day Use	- Apparel	- Maintenance – Building
- General Store	- Fuel	- Maintenance – Infrastructure
- Marina	- Groceries	- Maintenance – Grounds
- Moorage	- Ice	- Repairs – Building
- Lodging/Rooms	- Other Food & Beverage (e.g., Food Truck)	- Repairs – Infrastructure
- RV Rental	- Reservation	- Repairs - Grounds
- Support (for Park-wide infrastructure)	- Taxable Merchandise	- Housekeeping

18. **Financial Report Schedule.** Financial reporting to COUNTY will be on a calendar month basis. CONTRACTOR shall submit a monthly written general ledger, trial balance, and profit and loss statement (P&L) to the COUNTY for review and approval within thirty (30) days of the end of each calendar month. CONTRACTOR shall also provide out of cycle financial reports at the COUNTY’s request, to develop COUNTY’s budget estimates.

19. **Procurement of Good and Services.** CONTRACTOR shall have no authority to negotiate or contract for, or purchase goods or services on behalf of the COUNTY without prior approval from the COUNTY. Prior approval may be given in various forms to allow continuity of operations, including individual approval for one-time procurement of goods or services in accordance with sub-sections 19.1 – 19.3 below, or as part of the Operations Plan approved by the COUNTY for scheduled services or reoccurring goods and inventory purchases. Tables 18.a, 18.b below provide guidelines for the responsibility of procuring third-party contracts for goods and services:

Table 19.a: Procurement Responsibility		
	Capital Project	Operations and Maintenance
Goods	COUNTY	CONTRACTOR (with COUNTY approval)
Services	COUNTY	COUNTY

Table 19.b: P&L Calculations		
	Capital Project	Operations and Maintenance
Goods	Not Included	Included
Services	Not Included	Included

- 19.1. CONTRACTOR may, upon written approval from the RMA Director or Deputy Director(s), act as a designated agent on behalf of the COUNTY to coordinate with third-party vendors, suppliers, independent contractors, promoters and sanctioning bodies to provide amenities, perform repair and maintenance, and provide other services as necessary in performance of this Agreement. CONTRACTOR, shall, as designated agent, collect all revenue, receive invoices and make payments for third-party services.
- 19.1.1. Unless considered an ineligible expense per Section 14 – Additional Services, all revenues and expenses incurred by CONTRACTOR as a designated agent for the COUNTY shall be reported to the COUNTY on a monthly basis.
- 19.1.2. CONTRACTOR shall submit copies of all invoices paid in the previous month.
- 19.2. **Transition of Third-Party Contracts.** Upon execution of this Agreement, CONTRACTOR shall provide to COUNTY a list of its active contracts used in performance of lake management services under agreement A-11983. COUNTY may provide written authorization to CONTRACTOR to continue to procure services under these existing contracts, and receive reimbursement for associated Direct Operating Costs, subject to review and approval by COUNTY, while COUNTY executes contracts for the same services, as needed. Contractor shall act as the designated agent in accordance with Section 19.1 once a COUNTY contract is executed and a written notification provided to CONTRACTOR naming it as designated agent, COUNTY may rescind its existing contract authorization with a seven (7) day notice, and any subsequent costs incurred by CONTRACTOR using its own contract shall not be eligible for reimbursement.
- 19.3. **Emergency Services.** CONTRACTOR may, upon written approval by the COUNTY, contract directly with third-party vendors to provide services when the COUNTY determines the need presents an immediate threat to life safety, health or property. No individual contract for emergency services shall exceed \$15,000 per COUNTY procurement policy. Services are subject to prevailing wage requirements.
20. **Profit and Loss Statement (P&L).** The P&L, as audited and approved by the COUNTY, will reflect all CONTRACTOR revenue, and expenses paid in the normal course of business such as all personnel, supplies, materials and equipment needed for the operation of the Park, excluding any Additional Services as defined under Section 14. COUNTY

expenses such as Information Technology Department (ITD) Support Costs, Fleet service and Vehicle Acquisition Management Plan (VAMP) costs and utilities shall not be included in the P&L.

- 20.1. CONTRACTOR shall include in the P&L a summary of its previous month Direct Operating Costs, directly related to and incurred in the performance of this Agreement and specifically set forth in Table 20 below.

Table 20 – Direct Operating Costs
Costs for Staff Working at the Park:
Salaries, Benefits and Employee Welfare
Insurance Health
Workers Comp
Payroll Service Fees
Payroll Taxes
Additional Insurance purchased to meet Agreement requirements.
Audit Expenses per Section 22
Marketing Expense
Property Taxes, Assessments and Fees
Park Legal Fees
Association Fees (on behalf of Park)
Third-Party Contracts (Acting as Designated Agent)
Cost of Goods Sold
Maintenance (Emergency and Scheduled) as defined in Exhibit A
Direct vehicle expenses under the Vehicle Lease Agreement (Exhibit B)

- 20.2. CONTRACTOR shall be responsible for the payment of all taxes, fees and assessments associated with its performance under this Agreement.
- 20.3. COUNTY maintains a Vehicle Acquisition Management Plan (VAMP) to offset the cost of replacement vehicles, vessels and equipment managed by County Fleet Management. Fleet vehicles, vessels and equipment provided by the COUNTY to CONTRACTOR will be included in the VAMP.
21. **Compensation.** Parties agree to settle the CONTRACTOR Operating Account Surplus or Deficit on a monthly basis, based on CONTRACTOR's P&L as reviewed and approved by the COUNTY. If a surplus, CONTRACTOR shall reimburse COUNTY. If a deficit, COUNTY shall reimburse CONTRACTOR. In addition, COUNTY shall pay CONTRACTOR a Fixed Management Fee of \$300,000 annually, paid in monthly installments of \$25,000. The Fixed Management Fee shall be adjusted at the beginning of each Fiscal Year in accordance with the prior 12-month average (July through June) Consumer Price Index (CPI) adjustment for the San Francisco/Hayward area. Payment shall be made within thirty (30) days of the end of each calendar month.

- 21.1. In addition to the Fixed Management Fee, COUNTY shall pay CONTRACTOR, if applicable, an Annual Incentive Fee of ten percent (10%) on the Fiscal Year Adjusted Net Income. The Annual Incentive Fee shall be paid, pending COUNTY's audit and approval of the Fiscal Year Adjusted Net Income and reconciliation of applicable COUNTY costs, not to exceed 120 days from June 30 each year. If the calculated Annual Incentive Fee falls below \$0, no fee will be paid by COUNTY.

- 21.2. For the purposes of this Agreement, the following definitions apply:
 - 21.2.1. Adjusted Net Income is calculated as Gross County and CONTRACTOR Income for the Park, less all Operating Expenses

 - 21.2.2. Gross Income means all COUNTY and CONTRACTOR operating revenue from ordinary business activities and specifically excludes:
 - 21.2.2.1. Sale of Capital Assets.
 - 21.2.2.2. Interest Earnings.

 - 21.2.3. Operating Expenses means all COUNTY and CONTRACTOR direct operating expenses, including Direct Operating Costs as defined in Table 19, the Fixed Management Fee, and other direct costs charged to the Park, including but not limited to the costs listed in Table 21.a below. Costs identified in Table 21.b are excluded from the Operating Expense calculation. CONTRACTOR costs listed in Table 21.b are ineligible for reimbursement.

Table 21.a – Allowable Costs Calculated as Operating Expense
Fleet service costs for vehicles assigned to the Park
Hours charged to the Park by the Chief of Parks and Administrative Operations Manager assigned to manage the Park contract, not to exceed 2% of total salary and benefits for each position.
Information Technology Department (ITD) Support Costs
Ranger hours for response to incidents in the Park as requested by CONTRACTOR, or to provide security and enforcement as determined by the supervising Park Ranger on duty to supplement the security responsibilities of CONTRACTOR. Ranger hours other than incident response at the Park as defined above will not be charged to the Operating Expenses calculation.
Utilities
Vehicle VAMP Costs

Table 21.b – Excluded Costs
Annual direct salary and benefits in excess of \$50,000 for CONTRACTOR Vice President assigned to oversee the Park
CONTRACTOR charges covering any corporate or central office overhead or staff, other than legal fees for services provided directly charged to the Park as allowed in Table 20.
COUNTY administrative staff costs and Ranger surface patrols not covered under Table 21.a
COUNTY insurance costs
Depreciation
Extraordinary items and Capital expenses as defined under Exhibit A.
Interest on Debt

22. **Audits and Reconciliation.** CONTRACTOR agrees that COUNTY, or its designee shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. CONTRACTOR agrees to provide COUNTY with any relevant information requested, and shall permit COUNTY access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts and other material that may be relevant to a matter under investigation for the purpose of determining compliance with the agreement.

22.1. CONTRACTOR shall have an independent Certified Public Accountant (CPA) conduct a Financial Statement Audit on an annual basis. The Financial Statement Audit includes the Balance Sheet, Income Statement, Statement of Owner's Equity and Statement of Cash Flows relating to this Agreement. CONTRACTOR also offers to COUNTY to provide an independent audit of CONTRACTOR's expenses at any time (not to exceed two times annually) requested by COUNTY in writing. All audits performed by independent entities shall be conducted by a licensed CPA in compliance with professional standards promulgated by the American Institute of Certified Public Accountants.

22.1.1. All costs associated with the performance of independent audits shall be included in the P&L as expenses paid in the normal course of operation. Any deficiency or error found in such audit will promptly be corrected by CONTRACTOR. If such audit shall disclose a variance of ten percent (10%) or greater in total annual revenue or a variance of ten percent (10%) or greater in total annual expense, CONTRACTOR shall be responsible to pay the entire amount of the independent audit not as part of the P&L.

22.2. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the COUNTY or as part of any audit of the COUNTY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment.

23. **Fiscal Year Budget.** CONTRACTOR shall provide COUNTY with a Fiscal Year budget by January 31 of each year, showing planned revenues and expenditures for the upcoming Fiscal Year by revenue generating activity.

SECTION II - PARK OPERATIONS

24. **Reporting Requirements.** The following table summarizes CONTRACTOR's non-regulatory reporting obligation to COUNTY. Additional federal, state and local regulations may require additional reporting.

Associated Section	Report Type	Frequency
10.1	Count of Fees, Reservations, Attendance by Zip Code	Monthly
10.3	Rates and Pricing Adjustments	October 31st
14.2	Rate Sheet for Additional Services	As Needed
15.1.1	Notice for small events	As Needed
15.1.2	Approval for large events	As Needed
16.6	Water Quality Test Copies	As Needed
20.1	P&L w/ Revenue and Expenses by Revenue Generating Activity	Monthly
26	Park Operations Plan	Bi-Annually (See Below)
26.1,2	Baseline Plan	October 31st
26.1,3	Summer Ops Plan	March 31st
26.4.5.1	Inventory reports	Monthly
27.1	Facility Inspection Reports	Quarterly

25. **Marketing Guidelines.** It is the goal of the County to promote the Park as a year-round destination for both water and non-water activities with the end result of increased attendance and net profit. CONTRACTOR shall be responsible for advertising and marketing of the Park to meet this goal. CONTRACTOR should consider alternative income opportunities and marketing strategy to render Park operations less dependent on the reservoir levels. Any marketing strategy must include a plan to attract special events to the Park. COUNTY may recommend events to CONTRACTOR to evaluate feasibility. CONTRACTOR shall submit its marketing plan and any plan updates to COUNTY as a part of the Park Operations Plan process described in Section 26 below, which is subject to COUNTY review and approval.

25.1. It is the intent of the COUNTY to promote the Park as a Monterey County park. CONTRACTOR shall market the Park using identifiers that include a form of "Lake Nacimiento" branding approved by the COUNTY. References to "CalParks", "Basecamp Hospitality", "Monterey Lakes Recreation Company", "Urban Parks Concessionaires" or any other form of branding which identifies CONTRACTOR shall not be permitted on any uniforms, vehicles, advertising, or any other marketing material.

25.2. All advertising shall be subject to approval by the COUNTY. COUNTY may approve marketing strategies that allow the CONTRACTOR to determine the best approach and content, however the COUNTY may at any time require the CONTRACTOR to terminate any advertising.

25.3. CONTRACTOR shall make all advertising material and agreements available to the COUNTY upon request.

25.4. There shall be no advertising, sponsorships or event sanctioning for tobacco, gun, cannabis, or adult entertainment businesses.

25.5. No advertising, sponsorship or event sanctioning agreement shall extend beyond the term of the CONTRACTOR's agreement with the COUNTY without the express, written approval of the COUNTY.

26. **Park Operations Plan.** CONTRACTOR shall provide COUNTY with a detailed Park Operations Plan (Plan) that will describe how CONTRACTOR intends to operate the Park in accordance with this Agreement. Subsequent years should consist of updates and revisions as necessary. The Plan shall be subject to review and approval by COUNTY. CONTRACTOR shall operate the Park in accordance with the approved Plan unless otherwise directed in writing by the COUNTY.

26.1. **Development Schedule.** CONTRACTOR shall update the Plan on a bi-annual basis, or as necessary upon agreement by the Parties. Plan updates shall consist of a "Baseline Operations Update" due October 31st for each year, and a "Summer

Operations Update” to be submitted by CONTRACTOR no later than March 31st of each year.

Table 26.a – Park Operations Plan Schedule	
Baseline Operations Update Due October 31st Annually (Report on operations for previous March 1 – September 30)	Summer Operations Update Due March 31st Annually (To account for water levels/weaather. Report on operations for previous October 31 – February 28/29)
Report on Previous Operating Period	Report on Previous Operating Period
Budget w/ cost by revenue generating activity.	Revised Budget based on outlook for weather and water levels.
Park Activities and Amenities	Revised Staffing Plan
Staffing	Retail and Merchandising Plan
Rates/Fees Update	Marketing Plan
Retail and Merchandising	Other Updates as Needed
Marketing	
Maintenance and Repairs	
Capital Improvement	

26.2. **Bi-Annual Operations Review.** CONTRACTOR shall provide COUNTY with a written progress report covering the previous operating period as part of the Baseline and Summer Operations Updates. Parties shall meet to review Plan updates and develop operations goals for the following year. Upon request by COUNTY, CONTRACTOR shall prepare a presentation for the Plan review meeting, highlighting accomplishments made in the previous reporting period and any proposed changes to the Plan for the upcoming period. Progress reports shall include the following information:

- 26.2.1. Comparison of overall Park operations for the previous reporting period compared to the goals previously set in the Plan.
- 26.2.2. Planned vs actual staffing levels
- 26.2.3. Planned vs actual marketing efforts
- 26.2.4. Maintenance and repair work completed, and the status of any incomplete maintenance or repair work scheduled for the preceding reporting period.
- 26.2.5. Any other updates as needed, or as requested by COUNTY to evaluate CONTRACTOR performance of this Agreement.

26.3. COUNTY shall provide CONTRACTOR with a “Satisfactory” or “Unsatisfactory” rating for each area of the operations review. CONTRACTOR’s

performance shall be considered unsatisfactory if CONTRACTOR fails to meet operations goals agreed to in the Plan or provide County with an acceptable explanation for the failure. County shall provide CONTRACTOR with a written explanation for any Unsatisfactory Rating.

26.4. The "Baseline Operations Plan" shall include the following:

26.4.1. **Budget w/ Line Item Detail.** A baseline budget which identifies estimated contractor costs, staff time, marketing, merchandising and all other expenses, and estimated revenue for the current and upcoming Fiscal Years. Each revenue and expense line should be supported by the information included in Plan as described in 23.2.2 – 23.2.9 below. To meet these requirements, CONTRACTOR must submit the following budget reports, to be included in the Baseline Operations Update:

- 26.4.1.1. Proposed budget for the upcoming Fiscal Year
- 26.4.1.2. Current Fiscal Year estimate of revenues and expenses
- 26.4.1.3. 3-Year estimate of revenues and expenses.

26.4.2. **Park Activities and Amenities.** Proposed operations and use of Park facilities, and any changes in operations from the previous year. These may include proposed relocation, reuse or closure of Park facilities, and investments in the Parks such as new or improved revenue generators. If facilities are scheduled to be closed, the maintenance status must be included (e.g. continued maintenance, "mothballed", etc.).

26.4.3. **Staffing.** Anticipated staffing estimates for the upcoming year, including approximate year-round and summer staffing levels, any pay/salary increases and pay range by position for County approval, general job descriptions, and any known special projects or assignments by position. The baseline plan should provide details on how year-round staff will be utilized in during periods of reduced water-related activity. The staffing plan will be updated with more detail as part of the Summer Operations Update, when water levels and expected park attendance are known.

26.4.4. **Rates and Fees.** Updates to existing rates and fees for Park amenities are due October 31 of each year. Retail, Food and Beverage, and Special Event/Promotional Fee rates may be approved as a range or criteria for pricing instead of specific rates, (e.g., discount programs based on time of year/end of season) These approved ranges or criteria may be adjusted with approval from the RMA Director or designee. Rates requiring COUNTY Board of Supervisors approval will be presented by COUNTY to the Board for adoption into the Monterey County Master Fee Schedule.

- 26.4.5. **Retail and Merchandise.** The Plan should demonstrate CONTRACTOR has developed a comprehensive merchandising plan that follows retail best practices, considers store and merchandising layout, product selection adjusted to meet customer demands, and analysis of pricing ranges for goods, expected gross margin, estimated cost of goods sold, proposed inventory levels and order points for the following retail categories:

Prepared Food	Tobacco
Taxable Groceries	Taxable Merchandise
Non-Taxable Groceries	Fishing Tackle
Ice Cream	Wood
Beer/Wine	Ice
Fountain Drinks	Gasoline
Apparel	Propane

- 26.4.5.1. CONTRACTOR shall provide COUNTY with monthly inventory reports which show shortages and shrink by retail category. This information may be included with the monthly P&L reports.
- 26.4.6. **Marketing.** A marketing plan and estimated costs, developed in accordance with the guidelines established in Section 25 above, including information on the target audiences, materials and media, planned special offers and promotions, partnerships, and other information that details how CONTRACTOR will market the Park. The Baseline Operations Plan should focus on marketing special events, new revenue-generating services/facilities, non-water activities and shoulder seasons. The Plan will be updated in the Summer Operations Update to include marketing scope based on water levels.
- 26.4.7. **Maintenance.** The Plan will include a list of all planned maintenance projects to be completed by CONTRACTOR during the upcoming year, and when projects are expected to be completed. Work may be subject to prevailing wage and public bidding requirements. The list of projects should consider deficiencies identified in facility inspections conducted in past years when determining project priorities. Project descriptions should include a cost estimate if available.
- 26.4.8. **Capital Improvements.** A list of proposed/requested capital improvements provided by CONTRACTOR to the COUNTY. All capital improvements, if approved, must be completed by the COUNTY. Capital improvements are subject to prevailing wage and public bidding requirements. A list of approved or scheduled capital

improvement projects relating to the Park, as adopted by the Board of Supervisors, will be provided by the COUNTY to be included in the Plan for reference.

26.5. The “Summer Operations Update” shall include the following:

26.5.1. Anticipated staffing plan, including staffing levels, pay/salary range and page range by position for County approval, general job descriptions, and any known special projects or assignments by position. The plan should also provide expected staff hours per month by task as shown in the sample Table 26.a below.

Table 26.c (Sample Plan)					
Task	Total Hours	July	August	September	...
Special Events and Marketing					
Weed Abatement					
Mowing					
Janitorial					
Gate Operations/Quagga Inspection					

26.6. COUNTY and CONTRACTOR acknowledge that the Plan may require revision at any time to address changing lake and/or Park conditions such as unexpected water levels or unexpected maintenance needs. CONTRACTOR shall notify COUNTY if it is unable to perform any part of the approved Plan due to conditions beyond its control (weather, available applicants for staffing, etc.). Parties will review the plan and may amend as necessary, and all changes must be approved in writing by the COUNTY prior to implementation.

27. **Facility Inspections.** CONTRACTOR shall regularly inspect all Park facilities under CONTRACTOR management to identify deficiencies and provide a written record of facility conditions to COUNTY.

27.1. CONTRACTOR shall conduct a minimum of quarterly inspections on all facilities to compare facility conditions with maintenance standards as described in this Agreement. The COUNTY may require additional inspections on facilities as needed.

27.2. CONTRACTOR shall record deficiencies identified through inspection, notification by visitors, COUNTY staff, etc.

27.3. COUNTY staff shall be allowed to accompany CONTRACTOR staff on inspections at any time.

- 27.4. COUNTY reserves the right to conduct its own inspection of any facility without prior notice to CONTRACTOR.
- 27.5. Parties shall comply with all local state and federal rules and regulations when conducting inspections of facilities used as Staff Housing.
28. **Inspection Records.** CONTRACTOR shall maintain written records of inspections and shall utilize inspection checklists to consistently document Facility conditions. CONTRACTOR shall note any deficiencies, new or ongoing on inspection forms. Deficiencies that present an imminent danger to life, health or property must be addressed within 24 hours.
- 28.1. Forms must be signed and dated by individual completing the inspection. A scanned electronic copy of the inspection form in .pdf format must be sent to the COUNTY designated point of contact within ten (10) days after the inspection.
- 28.2. CONTRACTOR shall make any inspection record on file available to the COUNTY upon request.
- 28.3. CONTRACTOR shall keep all inspection records on file for three (3) years following the end of this Agreement in electronic .pdf format.
29. **Maintenance.** CONTRACTOR shall provide preventative and corrective maintenance to keep all Facilities in a safe, operable condition that is in strict compliance with all applicable governmental regulations, laws and codes, including but not limited to applicable Building, Electrical, Plumbing and Fire codes. Work may be subject to prevailing wage and public bidding requirements.
- 29.1. Exhibit A details the maintenance responsibilities of the COUNTY and CONTRACTOR. COUNTY retains responsibility for all capital improvements and repairs.
- 29.2. CONTRACTOR shall return the Facilities to the COUNTY at the termination of the agreement in as good order as when received, excepting ordinary wear and tear.
- 29.3. CONTRACTOR shall be responsible for providing all staff and equipment necessary to maintain Park facilities in accordance with this agreement, except vehicles, vessels and equipment assigned to CONTRACTOR by COUNTY under this agreement or any associated vehicle lease agreement.
- 29.4. CONTRACTOR shall maintain all Park Facilities whether the Facilities are open or closed, unless express written permission is provided by the RMA Director or Deputy Director(s) stating that maintenance on a Facility may be discontinued (i.e. "mothballed").

- 29.5. CONTRACTOR shall be solely responsible for the cost of any repair or maintenance to Facilities resulting from the negligent acts or omissions of the CONTRACTOR. In the event of such damage, COUNTY may elect to perform such repair or maintenance itself, at CONTRACTOR's sole cost and expense, or require CONTRACTOR to perform the same at CONTRACTOR's sole cost and expense. Such costs shall not be included in the Adjusted Net Income Calculation.
- 29.6. CONTRACTOR shall be responsible for notifying COUNTY within 24 hours of any malfunction, problem, fault, or not-in-operation for any item for which COUNTY is responsible under Exhibit A, or immediately if a danger to life, health or safety is present.
30. **Maintenance Standards.** CONTRACTOR shall maintain all Facilities in good operating condition acceptable to the COUNTY, in accordance with industry standards and best practices as generally described below. COUNTY recognizes that conditions of some facilities at the start of this Agreement may not meet these standards, and COUNTY may provide CONTRACTOR with alternative maintenance standards on a temporary, case by case basis.

30.1. **Buildings**

- 30.1.1. **Building Extensions:** All decks, railings, steps, patios and other building extensions are structurally sound. Railings are secured and do not present a fall hazard. Decks, patios, steps and other constructed surfaces do not present a trip hazard.
- 30.1.2. **Doors:** Finish is in good condition, not chipped or peeling; locks function properly; threshold is not rotted, broken or presenting a trip hazard due to condition; weather-stripping is in place with no gaps; hinges tightened.
- 30.1.3. **Exterior:** Siding or other exterior finish is intact and provides adequate protection to the structure and interior; no holes, missing slats/boards, broken stucco, etc. Paint is not peeling or cracked.
- 30.1.4. **Fixtures, Equipment Misc.:** Appliances, fixtures and equipment (sinks, toilets, water heaters, filtration systems, HVAC, etc.) are in good working order; parts replaced as needed; leaks repaired; filters and other consumables replaced as needed per system and parts manufacturer direction; burned out lights replaced.
- 30.1.5. **Floors:** Flooring is free of trip hazards; Carpets are in good condition with no staining or discoloration beyond normal wear and tear; hard surface floors (wood, laminate, concrete, etc.) must be flat, clean, dry, structurally sound, free of squeaks and free of protruding fasteners.

- 30.1.6. **Interior Walls:** Holes and other damage to the interior wall surfaces are properly patched and painted. Paint is not peeling, bubbled, or otherwise defective.
- 30.1.7. **Marina:** Repair or replacement is required when flotation material no longer performs its designated function, or it fails to meet the specifications for which it was originally warranted. Flotation should be adequate to maintain a stabilized and safe structure capable of supporting use loads. Flotation should be securely fastened to the dock using galvanized steel straps, treated wood dowels, galvanized bolts, or other acceptable methods.
- 30.1.8. **Roof:** Roofing material does not leak and is in good condition. Gutters systems are clean, free of debris buildup. Roof is clean and free of leaves, pine needles, and other debris that may present a fire hazard.
- 30.1.9. **Water Damage:** Source(s) of water damage identified, and any ongoing contributing factors mitigated. Previous damage is assessed to determine the need for repair/replacement.
- 30.1.10. **Windows:** Glass is not broken or cracked; Glazing and weatherstripping provides a good seal, is not cracked, broken or missing; locks are in place (if applicable) and work properly; paint and/or finish is not chipped or peeling. Exterior frame is sealed with no holes or gaps into the interior of the structure. Window screens are free of tears, holes. Screens are secured in frames on all sides, and spline, if appropriate, is intact.
- 30.2. **Trees, Vegetation and Fire Management.** CONTRACTOR shall maintain grounds and open space in compliance with all applicable laws and regulations, such as fire codes and COUNTY policies and codes.
 - 30.2.1. CONTRACTOR shall maintain a vegetation clearance around any fire source or propane tank in accordance with CalFire standards.
- 30.3. **Animal and Pest Control.** CONTRACTOR shall be responsible for the control of all wildlife including rodents, insects and other pests and invasive species at the Park.
 - 30.3.1. Proactive preventative measures, including but not limited to netting, exterior surface protectors (skirt board, sheet metal), bat houses, bird deterrents, and rodent traps and deterrents shall be used as necessary to prevent wildlife from entering spaces within and under structures or otherwise damaging facilities.

- 30.3.2. Traps and repellents will be installed as needed around Park facilities and removed or replaced when full or unsightly.
 - 30.3.3. CONTRACTOR shall be responsible for all pesticide spraying and application, including all necessary permits.
 - 30.3.4. CONTRACTOR shall provide mussel inspection services at the Park entrance located at 10625 Lake Nacimiento Drive while it is open to the public. All inspections shall be conducted by trained personnel during hours which vessels are admitted to the Park.
 - 30.3.5. Quagga Inspection services shall include use of a Quagga Inspection Database to track inspections. Database reports and information shall be available to the COUNTY upon request.
 - 30.3.6. The COUNTY has in the past been awarded grants for Quagga Mussel inspections at the Park. The COUNTY anticipates that it will continue to apply for available grants for Quagga Mussel inspections and will expect CONTRACTOR to be involved in the execution of any grant scope of work related to these services.
- 30.4. **Grounds and Open Space.** CONTRACTOR shall provide all open space maintenance, including mowing, road patching, tree trimming, removal of dead or hazardous trees, debris clearing, weed spraying, picking up litter and general cleaning for the campgrounds and open space within the Park.
- 30.5. **Custodial/Janitorial.** CONTRACTOR shall provide services and staff for all custodial and janitorial services at Park facilities, including the following:
- 30.5.1. **Restrooms:** Clean, stock and maintain all structural restrooms, chemical toilets and floating restrooms (including pumping). Stock toilet paper and paper towel dispensers, fill or replace hand soap dispensers, empty all waste bins, sanitize and mop floors, sanitize facility regularly and as needed.
 - 30.5.2. **Garbage/Recycle:** Provide garbage and recycle collection services, to include cleaning and emptying of trash and recycle bins, cleanup of litter and debris and placement of trash and recycle bins as needed. Complete and adequate arrangements for the sanitary handling of all trash, garbage, and other refuse generated at the Park.
- 30.6. **Campgrounds.** Pool is kept clean and free of leaves, debris and algae. Chlorine and pH is tested and maintained regularly.

- 30.7. **Restaurant.** Restaurant is kept sanitized and clean in accordance with all food health and safety standards.
- 30.8. **Water and Wastewater Systems.** CONTRACTOR shall maintain all drinking water and wastewater systems (pumps, lift stations, filtration systems, storage tanks, and sewer treatment) including:
 - 30.8.1. Monitor drinking water quality levels including all required testing for turbidity.
 - 30.8.2. Maintain all required water system permits.
 - 30.8.3. Provide upkeep to the water systems as needed.
 - 30.8.4. CONTRACTOR shall require its staff to maintain all licenses and certifications necessary to legally and safely operate equipment.
- 30.9. **Increased Maintenance Standards Following Capital Improvements.** CONTRACTOR shall maintain facilities that have undergone capital improvements in the improved condition following completion of such improvements.
- 31. **Public Safety.** CONTRACTOR shall provide basic security services at the Park grounds, including the marina. Services shall be provided by unarmed CONTRACTOR staff or a third-party contractor with CONTRACTOR acting as COUNTY's agent and will include enforcement of CONTRACTOR rules and policies and directing the public to follow COUNTY Code and applicable COUNTY park rules and regulations.
 - 31.1. COUNTY shall be responsible for coordinating all security and enforcement services on the water.
 - 31.2. CONTRACTOR shall provide on-site security to monitor visitor activity and safety at the Park based on the individual needs of each Park operation.
 - 31.3. Security shall make any required reports to the CONTRACTOR on-site supervisor or manager, and/or the appropriate authorities as necessary.
 - 31.4. Security shall observe and report any damage to Park property or suspicious activity.
 - 31.5. Security shall observe, investigate and report issues related to parked vehicles such as car break-ins, lights left on, missing permits and passes, etc.
 - 31.6. Security shall perform patrols of Park property including parking lots, campgrounds and public areas as required.

- 31.7. **CONTRACTOR** shall include **COUNTY** as an indemnified party in any waiver or release of liability provided to the public for use of Park facilities. Any such waiver or release of liability is subject to approval by **COUNTY**.
32. **Lake San Antonio Transition Plan.** It is the intent of **COUNTY** to transfer all operations at Lake San Antonio to **COUNTY**. **COUNTY** and **CONTRACTOR** shall coordinate the transition of operations at Lake San Antonio in accordance with the County's draft reservoir recreation plan or any subsequent plan approved by the **COUNTY** Board of Supervisors. Operations at Lake San Antonio are subject to the direction of the County Board of Supervisors
33. **Confidentiality.** **CONTRACTOR** and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. **CONTRACTOR** shall not disclose any confidential records or other confidential information received from the **COUNTY** or prepared in connection with the performance of this Agreement, unless **COUNTY** specifically permits **CONTRACTOR** to disclose such records or information. **CONTRACTOR** shall promptly transmit to **COUNTY** any and all requests for disclosure of any such confidential records or information. **CONTRACTOR** shall not use any confidential information gained by **CONTRACTOR** in the performance of this Agreement except for the sole purpose of carrying out **CONTRACTOR**'s obligations under this Agreement.
34. **County Records.** When this Agreement expires or terminates, **CONTRACTOR** shall return to **COUNTY** any **COUNTY** records which **CONTRACTOR** used or received from **COUNTY** to perform services under this Agreement.
35. **Maintenance of Records.** **CONTRACTOR** shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and **COUNTY** rules and regulations related to services performed under this Agreement. **CONTRACTOR** shall maintain such records for a period of at least three (3) years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then **CONTRACTOR** shall retain such records until such action is resolved.
36. **Access to and Audit of Records.** The **COUNTY** shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the **CONTRACTOR** and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the **COUNTY** or as part of any audit of the **COUNTY**, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three (3) years after final payment under the Agreement.

37. **Royalties and Inventions.** COUNTY shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without prior written approval of the COUNTY.
38. **Non-Discrimination.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free from such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed prohibited discrimination.
39. **Compliance with Terms of State or Federal Grants.** If this Agreement has been or will be funded with monies received by the COUNTY pursuant to a contract with the state or federal government in which the COUNTY is the grantee, CONTRACTOR will comply with all provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, COUNTY will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.
40. **Independent Contractor** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the COUNTY. No offer or obligation of permanent employment with the COUNTY or particular COUNTY department or agency is intended in any matter, and a CONTRACTOR shall not become entitled by virtue of this Agreement to receive from COUNTY any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold COUNTY harmless from any and all liability which COUNTY may incur because of CONTRACTOR's failure to pay such taxes.

41. **Conflict of Interest.** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
42. **Amendment.** This Agreement may be amended or modified only by an instrument in writing signed by COUNTY and CONTRACTOR.
43. **Waiver.** Any waiver of any terms and conditions of this Agreement must be in writing and signed by COUNTY and CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms and conditions in this Agreement.
44. **Contractor.** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
45. **Disputes.** CONTRACTOR shall continue to perform under this Agreement during any dispute.
46. **Assignment and Subcontracting.** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of COUNTY. None of the services covered by this Agreement shall be subcontracted without the prior approval of the COUNTY. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
47. **Successors and Assigns.** This Agreement and the rights, privileges, duties, and obligations of the COUNTY and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the Parties and their respective successors, permitted assigns, and heirs.
48. **Compliance with Applicable Law.** The Parties shall comply with all federal, state, and local laws and regulations in performing this Agreement.
49. **Headings.** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
50. **Time is of the Essence.** Time is of the essence in each and all of the provisions of this Agreement.
51. **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the State of California.

52. **Non-exclusive Agreement.** This Agreement is non-exclusive and both COUNTY and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services at locations other than the Park.
53. **Construction of Agreement.** COUNTY and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
54. **Counterparts.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
55. **Authority.** Any individual executing this Agreement on behalf of the COUNTY or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such Party and bind the Party to the terms and conditions of this Agreement.
56. **Integration.** This Agreement, including all exhibits, represent the entire Agreement between COUNTY and CONTRACTOR with respect to the subject matter of this Agreement, and shall supersede all prior negotiations, representations, or agreements, either written or oral, between COUNTY and CONTRACTOR as of the effective date of this Agreement, which is the date COUNTY signs the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: [Signature]
Contracts/Purchasing Officer

Date: 7-29-19

Approved as to Form and Legality
Office of the County Counsel-Risk Management
Charles J. McKee, County Counsel-Risk Manager

By: [Signature]
Brian P. Briggs
Deputy County Counsel

Date: 7-11-19

Approved as to Fiscal Provisions

By: [Signature]
Auditor/Controller

Date: 7-12-19

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Management
Charles J. McKee, County Counsel-Risk Manager

By: _____

Name: _____

Title: _____

Date: _____

CONTRACTOR*

Urban Parks Concessionaires
dba Monterey Lakes Recreation Company
Contractor's Business Name

By: [Signature]
(Signature of Chair, President or Vice President)

Its: John Koeberer, Chief Executive Officer,
(Print Name and Title) **Chair**

Date: July 10, 2019

By: [Signature]
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Its: Richard Bayer, CFO
(Print Name and Title)

Date: July 10, 2019

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
Buildings: Decks and Patios	<ul style="list-style-type: none"> - Additions to decks/patios - Water sealing, staining or painting of new decks/patios - Purchase of deck/patio furniture over \$1,000/unit. - Installation or complete replacement of: <ul style="list-style-type: none"> • entire decks or patios • floor of deck • footings • patio roofs • stairs • railings 	<ul style="list-style-type: none"> - Maintenance, patching and Cleaning of decks/patios - Water sealing, staining or painting of existing decks - Purchase of patio/deck furniture under \$1,000/unit. - Repair or partial replacement of: <ul style="list-style-type: none"> • decks/patio • floor of deck/patio • footings • stairs • railings
	Buildings: Doors	<ul style="list-style-type: none"> - Closing off a doorway - Cutting of doorways - Installation or replacement of doors, or doors and frames, or storm doors with related hardware - Painting, varnishing or staining a new door

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
		<ul style="list-style-type: none"> • head jambs • hinges • jambs • locks or latches • thresholds • top rails • trim • weather stripping
Buildings: Exterior	<ul style="list-style-type: none"> - Additions to existing structures - Application of siding to structures - Complete replacement of porches - Complete re-siding of structures - Installation or complete replacement of permanent awnings 	<ul style="list-style-type: none"> - Patching cracks - Repair or maintenance of: <ul style="list-style-type: none"> • awnings (including canvas) • exterior surfaces - Repair, replacement, or maintenance of: <ul style="list-style-type: none"> • canvas awnings • flashings • siding (partial) - Repair woodpecker damage - Caulking/sealing as needed.
Buildings: Fireplaces	<ul style="list-style-type: none"> - Addition or complete replacement of flue or liner (metal or foam) - Complete replacement of chimneys - Installation of new chimneys - Installation or complete replacement of fireplaces (other than freestanding units or inserts) 	<ul style="list-style-type: none"> - Cleaning (including chimney) - Fixing cracks - Installation of spark arrestors - Installation, maintenance or repair of freestanding fireplace unit or insert - Repointing - Sealing of flashings - Repair or replacement of: <ul style="list-style-type: none"> • ash pits • caps • cold air inlets • damaged bricks • dampers and controls • flashings • fireboxes • firebricks • firechambers • flues • headers, hearths, lintels and mantels • loose mortar • rain and draft deflectors • smoke chambers • smoke shelves • warm air outlets

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
Buildings: Fixtures	<ul style="list-style-type: none"> - Complete remodeling of bathrooms (toilet, tub, and vanity) - Complete reconditioning of kitchen cabinets - Complete installation or replacement (including any necessary fixtures) of: <ul style="list-style-type: none"> • built-in dishwashers, freezers, ranges, refrigerators, ovens • cabinets (permanent) • Countertops • exhaust fans • floor tiles (if ceramic or quarry type) • garbage disposals • kitchen cabinets • range hoods • tile (floor or wall) • tub or shower enclosures • tubs • wall tiles • water softeners 	<ul style="list-style-type: none"> - Installation of free-standing appliances and cabinets - Unclogging of drains - Replacement of faucets and shower heads - Replacement of (including all parts and accessories): <ul style="list-style-type: none"> • cabinet doors • faucets • Freezers • portions of cabinets • portions of countertops • Ranges • Refrigerators • shower • sinks • toilets • vanities - Repair of (including all parts and accessories): <ul style="list-style-type: none"> • cabinets • countertops • dishwashers • ducted or ductless hoods • exhaust fans • faucets • freezers • garbage disposals • mirrors • ovens • ranges • refrigerators • shower heads • sinks • tile • toilets • tub or shower enclosures • tubs • vanities
Buildings: Flooring	<ul style="list-style-type: none"> - Installation or complete replacement of carpet, carpet tile, carpet padding, concrete, linoleum and vinyl roll floor covering, tile, wood floor, floating wood laminate, and other similar floors and floor coverings. - Cleaning, sanding, waterproofing, painting, staining, varnishing and waxing new floors. 	<ul style="list-style-type: none"> - Repair, maintenance or partial replacement of carpet, carpet tile, carpet padding, concrete, linoleum and vinyl roll floor covering, tile, wood floor, floating wood laminate, and other similar floors and floor coverings. - Cleaning, stripping, sanding, waterproofing, painting, staining, varnishing and waxing existing floors.

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
	- Raised flooring	
Buildings: Garage doors	<ul style="list-style-type: none"> - Installation or replacement of complete garage doors - Installation or complete replacement of electric garage door openers and controls - Painting, varnishing or staining of new garage doors 	<ul style="list-style-type: none"> - Adjustment of spring tension - Lubrication of parts - Repair or maintenance of electric garage door openers and controls - Painting, varnishing or staining of existing garage doors - Weather-stripping - Repair or replacement of: <ul style="list-style-type: none"> • cables • casings • door frames • door sections • glass panes • hinges • jambs • locks • panels • rollers • saddles • springs • stiles • stops • tracks • trim
Buildings: Roofs and roofing materials	<ul style="list-style-type: none"> - Complete replacement of a roof or roofing materials (entire building), or the complete side of a peaked roof, or the complete roof or roofing materials on a wing, turret, dormer, etc. - Installation or replacement of complete gutter and downspout systems - Original installation of all types of roof systems including accessories 	<ul style="list-style-type: none"> - Application of roof coating or repairs to existing roofs - Cleaning and repairing of all types of roof systems, gutters, downspouts, drains, etc. - Repair or spot replacement of all types of roofs or roofing materials (asphalt, shingle, slate, tile, built-up, metal, single ply) - Repair or replacement of the following items or accessories: <ul style="list-style-type: none"> • Copings • Cornices • drip edges • expansion joints • flashings (all types) • gravel stops and fascias • metal or composition valleys • metal ornaments • metal stacks • rain and draft deflectors • shingles (all types) • skylights and scuttles • ventilators

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
		<ul style="list-style-type: none"> • gutter and downspout systems (partial) • louvers and screens
Buildings: Stairs	- Installation or complete replacement of sets of stairs or staircases	<ul style="list-style-type: none"> - Eliminating squeaks and tightening of loose balusters - Painting, varnishing or staining of existing stairs - Repair or replacement of: <ul style="list-style-type: none"> • balusters • handrails • newels • risers • termite damage • treads • wet and dry rot
Buildings: Ventilation	<ul style="list-style-type: none"> - Installation or complete replacement of permanent: <ul style="list-style-type: none"> • permanent attic fans • exhaust fans • gable vents • roof vents • soffit vents • wind turbines 	<ul style="list-style-type: none"> - Installation or replacement of portable attic fans - Repair, maintenance or replacement of the following in permanent or portable attic or exhaust fans: <ul style="list-style-type: none"> • bearings • blades • motors • shutters
Buildings: Walls	<ul style="list-style-type: none"> - Baseboards and trim installed in connection with paneling walls - Baseboards and trim installed on new or completely replaced walls - Complete paneling of new or existing walls - Finishing of new or completely replaced walls - Installation or complete replacement of tile walls - Installation or complete replacement of a wall - Original insulation of new or completely replaced walls 	<ul style="list-style-type: none"> - Cleaning - Fixing nail pops - Painting of existing walls (including murals) - Patching cracks - Regrouting of ceramic tile - Repair of: <ul style="list-style-type: none"> • dents • split wallboard tape • termite damage • wet and dry rot

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)	
Buildings: Windows	<ul style="list-style-type: none"> - Painting of new or completely replaced walls (including murals) - Removal of a wall - Wallpapering of new or completely replaced walls - Waterproofing new or completely replaced walls 	<ul style="list-style-type: none"> - Replacement of: <ul style="list-style-type: none"> • ceramic fixtures • damaged ceramic tiles • existing baseboards, molding, trim • wallboard panels and wood panels - Stopping water leaks - Wallpapering of existing walls 	
	<ul style="list-style-type: none"> - Application of window film or coating in connection with original installation or complete replacement - Caulking of new or completely replaced windows - Installation or complete replacement of permanent combination storm windows - Installation or complete replacement of complete windows (frames and sashes) - Painting, varnishing or staining of new or completely replaced windows - Installation or complete replacement louvers and window shutters. 	<ul style="list-style-type: none"> - Applying putty, window film or coating to existing windows - Caulking of existing windows (interior/exterior) - Eliminating sticking - Installation of: <ul style="list-style-type: none"> • drapery rods/ hardware • Shades • Valances • Venetian blinds • window quilts - Lubricating sashes - Weather-stripping - Painting, varnishing or staining of existing window. - Replacement and/or replacement of: <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="vertical-align: top; width: 50%;"> <ul style="list-style-type: none"> • aprons • balances • broken glass • frames • hardware (latches, handles, locks, etc.) • inside stops • louvers • parting strips • pocket covers </td> <td style="vertical-align: top; width: 50%;"> <ul style="list-style-type: none"> • shutters side casings • side jambs • stools • storm windows panes or screens • termite damage • window frames • window panes (glass or plastic) • wet and dry rot </td> </tr> </table> 	<ul style="list-style-type: none"> • aprons • balances • broken glass • frames • hardware (latches, handles, locks, etc.) • inside stops • louvers • parting strips • pocket covers
<ul style="list-style-type: none"> • aprons • balances • broken glass • frames • hardware (latches, handles, locks, etc.) • inside stops • louvers • parting strips • pocket covers 	<ul style="list-style-type: none"> • shutters side casings • side jambs • stools • storm windows panes or screens • termite damage • window frames • window panes (glass or plastic) • wet and dry rot 		

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
		<ul style="list-style-type: none"> • sash balances • sash cords • sash stiles • sash weights/pulleys • window frames • window sills yoke or head jambs
Campgrounds	- Purchase of picnic tables and fire pits	<ul style="list-style-type: none"> - Replace campsite hookup pedestals (connect to existing utilities) - Installation and maintenance of picnic tables including painting and replacing boards. - Installation and maintenance of fire pits - Stabilize and backfill washouts and erosion with aggregate - Maintaining 10ft clearing around all fire pits
Generators	- Installation of new generators, overhaul	<ul style="list-style-type: none"> - Regular inspection and record keeping as required by federal, state and local laws and regulations. <ul style="list-style-type: none"> • Inspect generator housing condition • Check fluid levels, line fittings, hoses for leaks - Coordinating third-party inspections as necessary.
Grounds and Open Space	- Original installation or complete replacement of: <ul style="list-style-type: none"> • fences (permanent) • fountains (except free standing) • gates • ponds (permanent) • retaining walls • rock gardens • sprinkler systems 	<ul style="list-style-type: none"> - Application of fertilizers, herbicides and pesticides - Installation of free-standing fountains - Mowing of lawns, weed-eating - Pruning, fertilizing of trees and shrubs - Removal without replacement of trees or shrubs (when not part of a capital improvement project) - Repair of gates, fence pickets, posts, rails or sections - Repair or replacement of lawn sprinkler systems including: <ul style="list-style-type: none"> • centrifugal pumps • pump controllers • remote control valves • sections of piping • sprinkler controllers • sprinkler heads - Repairing sections of retaining walls

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
		<ul style="list-style-type: none"> - Replacement of fence fabric - Reseeding or over-seeding of lawns - Sodding bare spots - Straightening or repairing retaining walls - Planting or replacing perennials, annuals, shrubs and trees - Aerating and dethatching - Replace divots, fill in squirrel holes - Maintain fire breaks - Herbicide spraying
Marina	<ul style="list-style-type: none"> • Marina floats, railings, anchors, structural components. • Fuel pumps and tanks, main fuel line to land 	<ul style="list-style-type: none"> • Moving docks (including use of barge) to maintain access with changing water levels • Repair or replace cleats, bumpers, small repairs to marina deck. - See applicable category (electrical, buildings: fixtures, etc.) for maintenance and repair assignments for the marina store building
Masonry and Blockwork	<ul style="list-style-type: none"> - Installation or complete replacement of: <ul style="list-style-type: none"> • block walls • brick walls • footings • foundations • poured concrete • posts • slabs • stairways • walls 	<ul style="list-style-type: none"> - Repair or partial replacement of: <ul style="list-style-type: none"> • block walls • brick walls • footings • foundations • poured concrete • posts • slabs • Stairways • Walls
Miscellaneous	<ul style="list-style-type: none"> - Asbestos removal (when done as part of a capital improvement contract) - Debris removal from construction sites (when done as part of a capital improvement contract) 	<ul style="list-style-type: none"> - Debris removal from construction sites (when done as part of a repair or maintenance contract) - Installation or replacement of: <ul style="list-style-type: none"> • mail boxes (installed on wall or post)

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
	<ul style="list-style-type: none"> - Fire sprinkler system installed or replaced in ceilings and connected to water supply systems - Installation or complete replacement of suspended ceilings - Installation hard-wired smoke and CO2 detectors - Installation of temporary heat, electric and plumbing at construction sites - Excavation work if for a capital improvement - Insulating structures - Installation or complete replacement of docks - Construction of: <ul style="list-style-type: none"> • footings • foundations • new homes/structures • new porches - Termite tenting - Installation of bat exclusions 	<ul style="list-style-type: none"> • smoke and CO2 detectors (battery operated) - Replacement of hard-wired smoke and CO2 detectors - Excavation work - if for repair and maintenance - Repair or maintenance of docks - Pest control, including baiting and maintenance of pest control preventative measures
Miscellaneous Fire, water, wind damage	<ul style="list-style-type: none"> - Rehabilitation of damaged structures (See appropriate sections for work performed.) - Demolition of a building or structure 	<ul style="list-style-type: none"> - Cleaning - Deodorizing - Refinishing floors - Removal of water or debris - Repainting - Replacement of broken glass
Painting	<ul style="list-style-type: none"> - Painting of new buildings, structures, or additions - Painting, varnishing or staining of new kitchen cabinets 	<ul style="list-style-type: none"> - Painting or repainting of existing buildings, structures, facilities or parts thereof - Painting, varnishing or staining of existing kitchen cabinets
Road Surfaces, Parking Lots	<ul style="list-style-type: none"> - Original installation of decomposed granite, gravel, crushed stone, flagstone patio block or other types of walks and paths. 	<ul style="list-style-type: none"> - Repair of walks; adding stone, replacing damaged patio blocks or bricks, releveling walks, repairing cracks in concrete - Campground/Lodging road surfaces and parking lots:

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
and Sidewalks	<ul style="list-style-type: none"> - Original installation or complete replacement of concrete and blacktop sidewalks - Resurfacing of blacktop sidewalks - Jetting road gutters and culverts - Campground/Lodging road surfaces and parking lots: <ul style="list-style-type: none"> • Installation or complete repaving (resurfacing) of driveways, parking lots, and walks; • Original installation of gravel or crushed stone driveway; • Original striping (line painting) on new parking lot. - All installation, repair and maintenance work on road surfaces other than work identified under CONTRACTOR responsibilities. 	<ul style="list-style-type: none"> - Replacement of cobblestones and crushed stone - Campground/Lodging road surfaces and parking lots <ul style="list-style-type: none"> • Replace and compact aggregate or other appropriate materials along roads • Repairing and patching of holes and cracks with decomposed granite, cold mix asphalt or other aggregate as needed • Repairing and patching sections of concrete or blacktop driveways, parking lots, and walks • Restriping, sealing, and dressing • Resurfacing of gravel or crushed stone driveways with new gravel or crushed stone • Maintaining or repairing of parking lot islands, including ongoing landscaping • Clear and maintain road gutters and culverts as is reasonable using hand tools
Swimming Pools	<ul style="list-style-type: none"> - Installation of in-ground swimming pool, including excavation work done in connection with the installation - Original installation or complete replacement of: <ul style="list-style-type: none"> • heater for in-ground swimming pool • liner for in-ground swimming pool 	<ul style="list-style-type: none"> - Installation or replacement of: <ul style="list-style-type: none"> • above ground swimming pool including excavation work done in connection with the installation • pumps, filters etc. • heater for above ground swimming pool - Repair or maintenance of above ground or inground swimming pool, including: <ul style="list-style-type: none"> • cleaning • repairing of liners • repairing pumps and heaters

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
Systems: Air conditioners	- Original installation or complete replacement of ductless mini-split unit.	- Installation or replacement of window air conditioner - Repair or replacement of the following in in-window or through-the-wall mounted units: <ul style="list-style-type: none"> • air flow controls • blowers • casings • compressors • copper tubing • fans • fan motors • filters • grilles • motors
Systems: Air cleaners	- Installation of central air cleaner systems - Original installation of ductwork or required additional ductwork - Replacement of complete central air cleaner units	- Installation or replacement of self-contained air cleaners - Repair or replacement of the following in self-contained or central units: <ul style="list-style-type: none"> • collector plates • electronic plates • filters • power boxes • return/supply air ducts • sails
Systems: Electrical	- Complete wiring or rewiring of structures or the upgrading of a service - Additions to wiring systems; for example, new circuits - In-wall installations of electrical wiring and communications cables in connection with the installation of burglar alarms or security systems - Original in-wall installations of telephone wiring, speaker wire, computer cable or coaxial cable, with the exception of the installation of telephone wiring installed by the telephone service provider, in connection with the telephone service that it is selling or cable television cable installed by the cable television service provider in connection with its service.	- Repair of: <ul style="list-style-type: none"> • floor outlets • Fluorescent fixtures • lighting fixtures • main power boxes • metal raceways • multi-outlet strips • outdoor lamppost • wall boxes • wall fixtures - Replacement of (no new wiring): <ul style="list-style-type: none"> • circuit breakers • fluorescent fixture parts: (ballasts, starters, tubes) • fuses • light bulbs • outlets • receptacles • switches • ceiling fixtures • fluorescent fixtures • wall fixtures

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
	<ul style="list-style-type: none"> - Installation of a dimmer switch to replace an existing switch - Original installation of: <ul style="list-style-type: none"> • circuit breakers • outlets • receptacles • switches • add-on panels • breaker panels • ceiling fixtures • door bells • door buzzers 	<ul style="list-style-type: none"> • door chimes • floor outlets • fluorescent fixtures • main power boxes • metal raceways • multi-outlet strips • outdoor lamp posts • wall boxes • wall fixtures • wiring
<p>Systems: Heating - electric furnace, gas, heat pump, solar, warm air duct, etc.</p>	<ul style="list-style-type: none"> - Installation or complete replacement of any system. - Addition to permanently installed electric heating systems 	<ul style="list-style-type: none"> - Cleaning and regular inspection/maintenance - Repair or replacement of: <ul style="list-style-type: none"> • angle boots • balance dampers • blowers • burner heads • coils • cold air returns • compressors • condensers • draft hoods • duct sections • elbows • elements • endcaps • filters • floor diffusers • fuses • main shutoff valves • pilot gas lines • plenum takeoffs • pressure regulators • relays • safety control valves • safety thermostat elements • sequencers • side stack takeoffs • starting collars • supply stackheads • thermostats • top stack takeoffs • transformers • valves

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)
Systems: Hot water heaters	<ul style="list-style-type: none"> • Installation of new hot water heaters 	<ul style="list-style-type: none"> • low-voltage terminals • main gas valves • vent pipes <hr/> <ul style="list-style-type: none"> - Cleaning of hot water heaters - Replace existing hot water heaters (no new plumbing) - Repair or replacement of: <ul style="list-style-type: none"> • anode rods • burners • casing covers • Connectors • drain pipes • drain valves • draft diverters • flue baffles, bodies or collars • glass inner tanks • heating elements • inlet-outlet pipes • outlet pipes • tank linings • temperature control knobs • temperature-pressure relief valves • thermocouples • thermostats
Systems: Plumbing (General)	<ul style="list-style-type: none"> - Additions to piping systems - Excavation required for installation or complete replacement of piping systems - Original insulation of new or replacement piping systems - Installation or complete replacement of: <ul style="list-style-type: none"> • piping systems • water pumps 	<ul style="list-style-type: none"> - Repair of pipes and fittings - Repair of sprinklers, water softeners and well pumps - Repair or replacement of: <ul style="list-style-type: none"> • air chambers • Cabinets • relief valves • shutoff valves • storage tanks • Traps - Unclogging of main drain pipes

Exhibit A – County and Contractor Maintenance and Repair Assignments

Category	Capital Expense (County)	Maintenance (CONTRACTOR)		
Systems: Lift Stations	<ul style="list-style-type: none"> - Digging of sump pump holes - Installation or replacement of motors, valves, plumbing, electrical. 	<ul style="list-style-type: none"> - Repair or replacement of floats and switches 		
Systems: Septic systems	<ul style="list-style-type: none"> - Installation or complete replacement of: <ul style="list-style-type: none"> • distribution boxes • dry wells • grease traps • leach fields • Lines • seepage pits • septic tanks 	<ul style="list-style-type: none"> - Cleaning or pumping out of septic tank - Excavation required for repair or maintenance - Repair or maintenance of: <table style="display: inline-table; vertical-align: top; margin-left: 20px;"> <tbody> <tr> <td> <ul style="list-style-type: none"> • distribution boxes • dry wells • grease traps • leach fields </td> <td> <ul style="list-style-type: none"> • lines • seepage pits • septic tanks </td> </tr> </tbody> </table> 	<ul style="list-style-type: none"> • distribution boxes • dry wells • grease traps • leach fields 	<ul style="list-style-type: none"> • lines • seepage pits • septic tanks
<ul style="list-style-type: none"> • distribution boxes • dry wells • grease traps • leach fields 	<ul style="list-style-type: none"> • lines • seepage pits • septic tanks 			
Systems: Water	<ul style="list-style-type: none"> - Deepening existing water wells - Drilling or boring new water wells <ul style="list-style-type: none"> • water well pumps 	<ul style="list-style-type: none"> - Repair and maintenance of water well pumps 		



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

Board Order

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor Wendy Root Askew to:

Agreement No.: A-15691

- a. Approve and authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute Amendment No. 1 to the Operation and Management Agreement with Urban Parks Concessionaires dba Monterey Lakes Recreation Company to add a contractor-owned and managed vessel rental fleet at the Lake Nacimiento resort; and
- b. Approve and authorize the Contracts/Purchasing Officer or Contracts/Purchasing Supervisor to execute an Assignment & Assumption Agreement in a form substantially similar to the attached upon sale of assets from Urban Parks Concessionaires dba Monterey Lakes Recreation Company to RRM-CLM Services, LLC (RRM-CLM).

PASSED AND ADOPTED on this 1st day of February 2022, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams
NOES: None
ABSENT: None
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting February 1, 2022.

Dated: February 2, 2022
File ID: A 22-031
Agenda Item No.: 32

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

Julian Lorenzana, Deputy

**AMENDMENT NO. 1
TO OPERATION AND MANAGEMENT AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
URBAN PARKS CONCESSIONAIRES, DBA MONTEREY LAKES RECREATION
COMPANY**

THIS AMENDMENT NO. 1 to the Operation and Management Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, “COUNTY”) and Urban Parks Concessionaires, dba Monterey Lakes Recreation Company (hereinafter, “CONTRACTOR”) is hereby entered into between the County and the CONTRACTOR (collectively, the “Parties”) and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into an Agreement with COUNTY on July 29, 2019 (hereinafter, “Agreement”) to provide facility management services on behalf of the COUNTY for the area of operations under COUNTY control at Lake Nacimiento (“Park”), and other services as described in the Agreement;

WHEREAS, CONTRACTOR wishes to operate a fleet of CONTRACTOR-owned rental vessels (Rental Vessels) at the Park;

WHEREAS, the Parties agree that such CONTRACTOR Rental Vessels will bring additional visitors and revenue to the Park, and is a mutually beneficial addition to Park operations; and

WHEREAS, the Parties wish to amend the Agreement to incorporate terms and conditions for the oversight and operation of CONTRACTOR Rental Vessels.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the second sentence of Section 4., “Exhibits”, to add “Exhibit E: CONTRACTOR Rental Vessels.
2. Exhibit E – CONTRACTOR Rental Vessel Fleet, attached hereto, is incorporated into the Agreement.
3. Amend Paragraph 10.2 and Table 10 – Rate Approvals in Section 10. “Public Access, Reservations and Fees to read as follows:

10.2. All rates and charges to the public by CONTRACTOR for Park services will be reasonable and appropriate for the type and quality of facilities, equipment and products provided. Rental rates for the CONTRACTOR Rental Vessels as described in Exhibit E shall be set by the CONTRACTOR and are not subject to County approval. Required approvals for various rate and fee types are shown in Table 10 below:

Table 10 – Rate Approvals		
Director and Board of Supervisors Approval	Director or Designee Approval	CONTRACTOR Approval
Entry Fees Reservation Fees Facility use fees (boat launch, rentals, marina slip rates, etc.)	Retail Food and Beverage Special Event/Promotional Fees: - User Fees - Assignment of Cost to Permittee - Promotional Event Fees - Special Discount Programs and Promotions	CONTRACTOR Rental Vessels

4. Amend Paragraph 10.3 in Section 10. “Public Access, Reservations and Fees to read as follows:

10.3 CONTRACTOR shall submit all proposed rates and pricing changes subject to COUNTY approval for review and approval by the PWFP Director or designee as part of the Baseline update as detailed in Section 26.

5. Amend the first sentence in Section 20. “Profit and Loss Statement (P&L)”, to read as follows:

20. **Profit and Loss Statement (P&L).** The P&L, as audited and approved by the County, will reflect all CONTRACTOR revenue, and expenses paid in the normal course of business such as all personnel, supplies, materials and equipment needed for the operation of the Park, excluding any Additional Services as defined under Section 14., and CONTRACTOR Rental Vessels revenue and expenses as described in Paragraph 20.4 and in Exhibit E.

6. Amend Table 20 – Direct Operating Costs to read as follows:

Table 20 – Direct Operating Costs
<i>(Excluding all CONTRACTOR Rental Vessel costs as described in 20.4 below and Exhibit E)</i>
Costs for Staff Working at the Park
Salaries, Benefits and Employee Welfare
Insurance Health
Workers Comp
Payroll Service Fees
Payroll Taxes
Additional Insurance purchased to meet Agreement requirements.
Audit Expenses per Section 22
Marketing Expense
Property Taxes, Assessments and Fees
Park Legal Fees
Association Fees (on behalf of Park)
Third-Party Contracts (Acting as Designated Agent)
Cost of Goods Sold
Maintenance (Emergency and Scheduled) as defined in Exhibit A
Direct vehicle expenses under the Vehicle Lease Agreement (Exhibit B)

7. Add Paragraph 20.4 to Section 20. “Profit and Loss Statement (P&L)” to read as follows:

20.4 CONTRACTOR Rental Vessels. CONTRACTOR shall calculate a Rental Vessel Staff Rate equal to one (1) hour average salary and benefits for CONTRACTOR’s Marina staff. The Rental Vessel Staff Rate will be multiplied by the number of Rental Vessel rentals for each month, and the resulting amount deducted from the monthly P&L Direct Operating Costs. No costs associated with CONTRACTOR rental vessels, including but not limited to, the purchase, repairs and maintenance, and insurance, shall be charged to the COUNTY.

8. Amend Section 21. “Compensation” to read as follows:

21. Compensation. Parties agree to settle the CONTRACTOR Operating Account Surplus or Deficit on a monthly basis, based on CONTRACTOR’s P&L as reviewed and approved by the COUNTY. If a surplus, CONTRACTOR shall reimburse COUNTY. If a deficit, COUNTY shall reimburse CONTRACTOR. In addition, COUNTY shall pay CONTRACTOR a Fixed Management Fee of \$300,000 annually, paid in monthly installments of \$25,000. The Fixed Management Fee shall be adjusted at the beginning of each Fiscal Year in accordance with the prior 12-month average (July through June) Consumer Price Index (CPI) adjustment for the San Francisco/Hayward area. Payment shall be made within thirty (30) days of the end of each calendar month. All revenue and expenses related to the CONTRACTOR Rental Vessels shall be recorded in separate financial statements from the other revenue and expenses described in this Agreement. The COUNTY’s compensation from the CONTRACTOR Rental Vessels is described in Exhibit E.

9. Amend Paragraph 21.2.2. to Section 21. “Compensation” to read as follows:

21.2.2. Gross Income means all COUNTY and CONTRACTOR operating revenue from ordinary business activities and specifically excludes:

- 21.2.2.1. Sale of Capital Assets.
- 21.2.2.2. Interest Earnings.
- 21.2.2.3. Revenue from the CONTRACTOR Rental Vessels.

10. Amend Table 21.b – Excluded Costs to read as follows:

Table 21.b – Excluded Costs
Annual direct salary and benefits in excess of \$50,000 for CONTRACTOR Vice President assigned to oversee the Park
CONTRACTOR charges covering any corporate or central office overhead or staff, other than legal fees for services provided directly charged to the Park as allowed in Table 20.
COUNTY administrative staff costs and Ranger surface patrols not covered under Table 21.a
COUNTY insurance costs
Depreciation
Extraordinary items and Capital expenses as defined under Exhibit A.
Interest on Debt

All expenses related to CONTRACTOR Rental Vessels

11. In all places in the Agreement, any reference to “Resource Management Agency” is replaced with “Public Works, Facilities & Parks”. Any reference to “RMA” is replaced with “PWFP”. Any reference to “Deputy Director” is replaced by “Assistant Director”
12. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.
13. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.
14. This Amendment may be executed in several counterparts and as so executed shall constitute one and the same agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart. Electronic copies shall be enforceable as originals.
15. The parties to the Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. section 7001 et seq.; California Government Code Section 16.5; and California Civil Code section 1633.1 et seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and all Exhibits to this Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF). This Agreement, including all Exhibits is the entire agreement between the parties relating to the Event and may only be modified by written agreement signed by both parties. Each person signing below represents to the other party that they are authorized to sign this Agreement and bind their respective companies to fulfill the obligations contained herein. Nothing in this Agreement is intended to create any rights in or confer any benefits upon any person or entity other than the parties to this Agreement.
16. If any provision of this Amendment, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of Amendment, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.
17. The recitals to this Amendment No. 1 are incorporated into the Agreement and this Amendment No. 1.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

By: DocuSigned by: Debra R. Wilson
7B741937AA0D41B...
Contracts/Purchasing Officer

Date: 2/4/2022 | 5:16 PM PST

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

By: DocuSigned by: Kristi Markey
C21D52A9D63041C...
Kristi Markey
Deputy County Counsel

Date: 1/11/2022 | 11:10 AM PST

Approved as to Fiscal Provisions

By: DocuSigned by: Gary Giboney
D3834BFEC1D8449...
Auditor/Controller

Date: 1/11/2022 | 11:14 AM PST

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel
Leslie J. Girard, County Counsel

By: _____
Danielle P. Mancuso
Risk Manager

Date: _____

CONTRACTOR*

Urban Parks Concessionaires, dba
Monterey Lakes Recreation Company

Contractor's Business Name

By: DocuSigned by: Kris Koeberer
0AA022214047487...
(Signature of Chair, President or Vice President)

Its: Kris Koeberer President
(Print Name and Title)

Date: 1/7/2022 | 4:29 PM PST

By: DocuSigned by: Richard Bayer
50BCA80CF1B04AD...
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: Richard Bayer CFO
(Print Name and Title)

Date: 1/10/2022 | 8:43 AM PST

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

Exhibit E – CONTRACTOR Rental Vessels

Exhibit E

To the Operations and Management Agreement by and between
County of Monterey, hereinafter referred to as “COUNTY”

and

Urban Parks Concessionaires, dba Monterey Lakes Recreation Company, hereinafter
referred to as “CONTRACTOR”

1. **General Description.** CONTRACTOR shall provide, operate and maintain, at its own expense, a fleet of rental vessels (Rental Vessels) for use at Lake Nacimiento (“Park”).
2. **Finances and Accounting.** CONTRACTOR shall keep Rental Vessel financial records separate from all other Park operations. Revenue and expenses for Rental Vessels shall not be included in any Park operations financial records or financial calculations.
 - 2.1. CONTRACTOR expenses related to Rental Vessel operations, including but not limited to maintenance, repairs, insurance, etc. are not eligible for County reimbursement.
 - 2.1.1. All invoices for work performed on Rental Vessels shall include the associated Hull Identification Number (HIN) or other identifier to clearly distinguish Rental Vessel expenses from Park operations expenses.
 - 2.2. CONTRACTOR shall calculate a Rental Vessel Staff Rate equal to one (1) hour average salary and benefits for CONTRACTOR’s Marina staff. The Rental Vessel Staff Rate will be multiplied by the number of Rental Vessel rentals for each month, and the resulting amount deducted from the monthly P&L Direct Operating Costs. This deduction will account for CONTRACTOR staff time supporting the Rental Vessel operations.
 - 2.2.1. The calculation dollar amount shall be updated as needed to reflect current staffing costs.
 - 2.2.2. The County shall have the right to review CONTRACTOR staff costs and Rental Vessel transactions to verify the calculation.
 - 2.3. CONTRACTOR shall maintain all required insurance applicable to the Rental Vessels in accordance with the terms of the Agreement. Insurance costs for the Rental Vessels shall not be included in the Park operations Direct Operating Costs.
 - 2.4. Rental Vessel revenue is defined as the rental fees charged, and damage waivers sold for CONTRACTOR Rental Vessels. All other revenue shall be reflected in the Park financial statements as described Agreement Section II – Finances and Accounting.
 - 2.5. CONTRACTOR shall pay County fifteen percent (15%) of monthly gross Rental Vessel rental fees, to be paid monthly within thirty (30) days of the end of each month, subject to County audit and approval. Revenue from Rental Vessel damage waivers is excluded from the 15% revenue calculation.
3. **Rental Vessel Inventory.** CONTRACTOR shall maintain an inventory of Rental Vessels and provide a current inventory to COUNTY upon request.

Exhibit E – CONTRACTOR Rental Vessels

- 3.1. Inventory shall record, at a minimum, the vessel make, model, HIN, year of manufacture and date of purchase.
4. **Other Terms and Conditions.** All other Agreement terms and conditions are applicable to the CONTRACTOR Rental Vessels.

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