

LAGUNA SECA RECREATION AREA “LSRA”

Facility Use Agreement

This Master Facility Use Agreement (“Agreement”) is made and entered into as of this 18th day of December, 2019 by and between the COUNTY OF MONTEREY, hereafter referred to as “COUNTY”, and Krave Group, LLC, a Delaware Limited Liability Company, dba, doing business as MOTOAMERICA, hereafter referred to as “MOTOAMERICA”, relative to an annual Motorcycle Festival event at the Laguna Seca Recreation Area and related facilities.

WHEREAS, COUNTY owns and operates the Laguna Seca Recreation Area (LSRA); and

WHEREAS, MOTOAMERICA desires to utilize the Laguna Seca Recreation Area (LSRA) facility to promote and conduct an annual Motorcycle focused sports event; and

WHEREAS, COUNTY is willing to grant to MOTOAMERICA a license to use the Laguna Seca Recreation Area (LSRA) and all its areas and facilities, except for ranges, temporary two story turn three structure, maintenance and office facilities.

WHEREAS, the Parties desire to enter into a Facility Use Agreement to produce an annual motorcycle focused Motorcycle Festival.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

Articles of Definitions:

1. “Agreement” means this Facility Use Agreement.
2. “Army Deed” means that certain quitclaim deed from the United States Government to County dated October 31, 1974 and recorded in Monterey County Official Records at Reel 944 Page 1077, conveying LSRA to County, as amended on August 6, 1986 and recorded in Monterey County Official Records at Reel 2012 Page 235, and on January 21, 2000 by Document No. 2000082485, Monterey County Official Records.
3. “County” means the County of Monterey
4. “MOTOAMERICA” means Krave Group, LLC, a Delaware Limited Liability Company, dba, doing business as MOTOAMERICA.
5. “County Representative” means the person designated by the County Administrative Officer for contract management purposes as described in Section XIII.
6. “LSRA” means the Laguna Seca Recreation Area.
7. “Party” means County or MOTOAMERICA singularly; “Parties” means County and MOTOAMERICA jointly.

SECTION I – USE OF FACILITIES

- A. MOTOAMERICA will be allowed to use the entire Laguna Seca Recreation Area facility (hereinafter referred to as “LSRA”), excluding ranges, temporary two story turn three structure, maintenance and office facilities, for a Motorcycle Festival to be held on Friday, Saturday and Sunday as set forth in Section II, below. It is anticipated that the maximum attendance is projected to be 20,000 paid persons per day (including campers). If this number is expected to exceed 20,000, MOTOAMERICA agrees to provide the County with a written notification within twenty-four (24) hours.
- B. Under this Agreement structure the COUNTY shall provide the necessary Track Personnel for the daily preparations and track cleaning prior to the track being released to MOTOAMERICA.
- C. In addition to the actual days that the Motorcycle Festival is being held as set forth in Section II below, MOTOAMERICA will have access to the indicated LSRA facilities according to the schedule below.
- 1) The Swale area shall be available to MOTOAMERICA beginning at 8:00 am on July 8th, 2020 for set-up and such availability shall conclude and terminate at 5:00 pm on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.
 - 2) The Lakebed Special Event Area (including Turn 2 parking) shall be available to MOTOAMERICA beginning at 8:00 am on July 8th, 2020 for set-up and such availability shall conclude and terminate at 5:00 pm on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.
 - 3) The fire break adjacent to the Rifle/Pistol Range shall be available to MOTOAMERICA at 8:00 am on July 9th, 2020 for set-up and such availability shall conclude and terminate at 5:00 pm on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.
 - 4) The Track view Hospitality Pavilion shall be available to MOTOAMERICA beginning at 8:00 am on July 8th, 2020 for set-up and such availability shall conclude and terminate at 5:00 pm on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.
 - 5) The Red 9, Wolf Hill and Lookout Ridge parking areas shall be available to MOTOAMERICA at 8:00 am on July 8th, 2020 for set-up and such availability shall conclude and terminate at 5:00 pm on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.
 - 6) The Paddock shall be available to MOTOAMERICA beginning at 8:00 am on July 9th, 2020 for set-up and such availability shall conclude and terminate at 5:00 pm on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.
 - 7) The Racetrack and Paddock Classroom building shall be available to MOTOAMERICA beginning at 8:00 am on July 9th, 2020 for set-up and such availability shall conclude and

terminate at 8:00 am on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.

- 8) All available LSRA permanent and temporary campground sites shall be available to MOTOAMERICA beginning at 11:00 a.m. on July 9th, 2020 for set-up and such availability shall conclude and terminate at 5:00 pm on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.
 - 9) All other utilized LSRA facilities shall be made available to MOTOAMERICA commencing at 8:00 am on July 8th, 2020 for set-up and such availability shall conclude and terminate at 5:00 pm on July 13th, 2020. MOTOAMERICA shall not disrupt any other pre-rented track activities during this period.
 - 10) All areas of the LSRA made available to MOTOAMERICA for use during the Motorcycle Festival shall be ready for use by COUNTY or its assigned no later than the day and time indicated above; MOTOAMERICA shall specifically indemnify and defend COUNTY for any claims or damages for the area(s) not being ready for use on that day and time.
 - 11) MOTOAMERICA may arrange with COUNTY to utilize LSRA areas and facilities as indicated in sections 8 and 9, or otherwise mutually agreed to by the parties, during the indicated periods above for temporary camping for attendees exempt from payment as set forth in section III.B, below to facilitate set-up and/or tear-down of the Motorcycle Festival.
- D. MOTOAMERICA shall be allowed to use Wolf Hill and Lookout Ridge for overflow camping if necessary and available and upon reasonable written notice to COUNTY. Any activities other than camping in these areas must be separately approved by COUNTY.
- E. During the days of operation of the Motorcycle Festival, COUNTY will close not be engaged in use of the Racetrack. The Racetrack shall be available to MOTOAMERICA beginning at 5:30 pm on the day prior to the Motorcycle Festival and such availability shall conclude and terminate at 6:00 am on the day following the Motorcycle Festival.
- F. LSRA will be provided on an “as-is” basis. In addition to the permanent facilities, for areas that are open to the public during the Motorcycle Festival, the COUNTY will provide restroom capacity at the current level provided by the existing permanent restroom facilities. MOTOAMERICA will be responsible and provide portable chemical toilets to meet the Monterey County Health Department’s standards and requirements, provide trash cans, recycle containers, and the appropriate number of ten-yard dumpsters as required, and will clean the public areas of all litter and trash after the transfer of the area to MOTOAMERICA. Areas not open to the public during the Motorcycle Festival shall be the responsibility of MOTOAMERICA.
- G. Subject to availability, COUNTY will make available to MOTOAMERICA traffic cones and barricades to MOTOAMERICA at no additional charge. MOTOAMERICA shall be responsible for any damage to said items.

- H. MOTOAMERICA shall be responsible for maintaining the entire LSRA from litter and trash during the Motorcycle Festival and shall assure all MOTOAMERICA vendors and contractors meet the requirements for sanitation and litter of their individual areas. MOTOAMERICA shall be ultimately responsible for collecting and removing all litter and trash from the LSRA facility and depositing it in dumpsters provided by MOTOAMERICA within 24 hours following the conclusion of the Motorcycle Festival. As part of the collection and disposal of all trash and litter, MOTOAMERICA shall develop and implement a plan to recycle waste products (including but not limited to aluminum, glass, plastic, cardboard, and cooking oils) generated by the Motorcycle Festival to the greatest extent possible and feasible.
- I. As COUNTY develops additional permanent physical facilities within the LSRA, such as building structures or tent structures, MOTOAMERICA will have the option of negotiating with COUNTY for utilization of these additional facilities at that time. County retains sole right to develop LSRA as County deems necessary, without consultation with MOTOAMERICA. In the event, such development impacts current LSRA in a manner that causes MOTOAMERICA to be unable to hold its annual event MOTOAMERICA may seek and be granted relief solely by early termination of this Agreement and in no event shall MOTOAMERICA be entitled to any damages of any kind as a result of such termination. MOTOAMERICA will be given notice of the potential of such development no earlier than six (6) months prior to the development commencing.
- J. MOTOAMERICA will be allowed the opportunity to reserve other available meeting facilities, for an additional charge. This utilization is in addition to the track view Pavilion usage noted above and may not be sublet. If utilized MOTOAMERICA shall be responsible for any damage to the facility. Utilization of the facility must be scheduled 30 days in advance of the requested use day and will not be available if track view Pavilion has already been reserved.
- K. Subject to space availability and the sole discretion of COUNTY, MOTOAMERICA is authorized to store up to six standard shipping/cargo containers of up to 40 feet long x 8 feet wide x 10 feet high for personal property (non-hazardous material) storage at the LSRA for an additional charge. Neither the containers nor the space within may be sublet or used for commercial or business purposes other than the storage of MOTOAMERICA's non-hazardous personal property. The exact location for the placement of the containers shall be at the sole discretion of COUNTY. The cost and maintenance of the containers is entirely that of MOTOAMERICA, who shall be required to maintain and keep them in a clean, painted, rust free, and secure condition. COUNTY shall have no liability of any kind for the containers or their contents, for any reason or arising from any claim or source or reason. MOTOAMERICA's duty to indemnify and insure COUNTY as stated in Sections VII and VIII, below, shall apply to any claim for damage or injury to anything or anyone, arising from the existence, presence, or contents of the containers. Within 30 days of the termination of this Agreement, MOTOAMERICA shall remove any previously approved containers at its own cost and return the area to its original condition. If MOTOAMERICA fails to move or remove any storage container when given notice and directed to do so, COUNTY may, without waiving any other right, remove, sell, use, or otherwise dispose of the containers and their contents, and MOTOAMERICA shall hold COUNTY harmless for such action. COUNTY shall provide MOTOAMERICA 24-hour access to the storage container area and shall provide County with keys and/or combination lock codes for immediate access. County agrees to only access containers in the event of an emergency or immediate need due to public health and safety.

- L. MOTOAMERICA shall be allowed to select and utilize vendors of its choice for the buildout and conduct of the Motorcycle Festival and will not be required to utilize vendors affiliated with the County's LSRA agent or concessionaire. County will be allowed to provide food and beverage concessions at no charge during the event and County shall retain all revenue from such concessions.
- M. The COUNTY may, in its sole discretion, assign its interests under this Agreement to any concessionaire contracted by the COUNTY to operate all or a portion of the LSRA. MOTOAMERICA acknowledges that it will need to cooperate with the future operator(s) of LSRA.

SECTION II – FACILITY USE DATES AND TERM

- A. COUNTY shall provide the facilities as described above to MOTOAMERICA for the motorcycle focused Motorcycle Festival during July 8th, 2020 through July 13th, 2020 as a County primary special event weekend, subject to the LSRA use permit, and the Force Majeure, Section IX, of this Agreement. MOTOAMERICA shall conduct the Motorcycle Festival on the following dates: July 10th, 2020 -July 12th, 2020
- B. Nothing in this Agreement shall in any way the County's rights or duties as a governmental agency with jurisdiction over LSRA, to act in the manner otherwise permitted or required under applicable laws for the health, safety and general welfare of the public.

SECTION III – PAYMENT

- A. MOTOAMERICA shall pay COUNTY a total of **\$150,000** for the 1-year term of this Agreement. Payments shall be made in the following installments as specified below for use of the facilities and services and under the conditions noted in SECTION I – USE OF FACILITIES of this Agreement:

Event Year Fee - \$150,000.00	
• February 1, 2020 -	\$25,000
• April 30, 2020 -	\$25,000
• May 30, 2020 -	\$50,000
• July 30, 2020 -	\$50,000

- B. COUNTY shall not receive any share of revenue from proceeds generated by MOTOAMERICA as a product of holding the event other than the amounts outlined in this agreement. COUNTY will be provided two complimentary 10' x 10' booth spaces in a premiere location during the Motorcycle Festival, where County may generate revenue or conduct other legitimate County business transactions. MOTOAMERICA agrees to honor the County's Season Pass Holders credentials at no cost to either County or the passholder during the scheduled Event.
- C. As set forth in section A, MOTOAMERICA shall pay to COUNTY a non-refundable deposit of \$25,000, payable not later than February 1st, 2020. MOTOAMERICA shall adhere to the following payment schedule as identified in Section A above. The deposit will be applied to the full payment due COUNTY for the Motorcycle Festival. If through no fault of COUNTY, the Motorcycle Festival is canceled then COUNTY shall nevertheless retain the full amount of the deposit. MOTOAMERICA shall obtain a bond for the benefit of the County in the amount of \$30,000. This bond shall be for covering any damage both physical and/or intellectual that may

result from holding the MOTOAMERICA event at LSRA. MOTOAMERICA may at its option provide County with a certified check as security deposit in lieu of this bond to be held by County and returned 30 days after County accepts receipt of LSRA as in acceptable condition upon inspection.

SECTION IV-PROMOTION, PUBLICITY, AND ADVERTISING

- A. COUNTY hereby authorizes MOTOAMERICA to use the name “Laguna Seca Recreation Area” subject to this Agreement in its promotional information that must be approved by COUNTY prior to final printing or release. If the name of the LSRA Facility is changed, by way of a naming rights agreement with COUNTY or by other action or cause, MOTOAMERICA shall be required to use the new name in its promotional information. COUNTY will promote MOTOAMERICA on the COUNTY marquee sign on Highway 68 in front of Laguna Seca for at least one week prior to the Motorcycle Festival and for an additional time period, if available, to be determined by COUNTY.
- B. Subject to the provisions of this Agreement, each Party shall have the reciprocal, non-exclusive right and license to use the MOTOAMERICA Championship Logo, Event Logo, MOTOAMERICA Logo, Laguna Seca Recreation Area name and Logo, and the likeness of the Laguna Seca Recreation Area (including sponsors actually depicted therein) in the Promotion of and Advertising for the Event, and in the case of MOTOAMERICA, the Championship. Neither Party shall make any misrepresentations of fact in connection with publicizing, promoting or advertising the Event. If such a misrepresentation is made, where required, the Party that made the misrepresentation shall promptly take reasonable steps to correct the error through a subsequent publication or other remedial measure. All uses must be pursuant to a mutually agreed upon brand guidelines or subject to the written approval of the granting party, such approval not to be unreasonably withheld, conditioned, delayed or denied. MOTOAMERICA shall have the perpetual historical right to depict the Marks for historical purposes on its website and other Promotional materials as well as to use the Marks on retail goods and services. MOTOAMERICA shall further have the right to depict the Marks in connection with virtual representations in eSports, iRacing, video games and virtual competitions related to the Championship.
- C. Event Digital, Radio, Television & Other Media Broadcast and Distribution. County acknowledges that MOTOAMERICA, as the entity conducting the competition, exclusively and in perpetuity owns (and in connection therewith, County hereby assigns to MOTOAMERICA) the right to film, tape, photograph, capture, overhear, collect, record, and/or reflect in eSports, iRacing, video games and/or other virtual competitions, to simultaneously or thereafter reproduce, broadcast (whether live, live streamed, tape- delayed, re-broadcast or otherwise), transmit or distribute, by any means, medium or device, now existing or hereafter create all images, sounds and electronic or digital data generated during and in connection with the Events and the Race. MOTOAMERICA shall undertake to provide digital and network television production and distribution of the Event and Race to be broadcast either live on linear television or live on a digital media platform. Current partners of MOTOAMERICA (subject to change in MOTOAMERICA’s discretion) with respect thereto, include, Fox Sports, NBC Sports (together with any additional or substitute broadcast partners, collectively “**Media Partners**”). The consequences of not obtaining digital and network television production and distribution, however, shall not be considered a breach of this Agreement by MOTOAMERICA.

- D. Further, MOTOAMERICA may, at its own expense, have a reasonably sized sign (not exceeding 32 square feet) painted, erected and maintained within the LSRA facility. The sign may remain for the duration of this Agreement. The content, format, color schemes, and location of all signs shall be subject to the Laguna Seca Sign Plan and approval by COUNTY. Said approval shall not be unreasonably withheld.
- E. COUNTY will promote and publicize the Motorcycle Festival event in its Calendar of Events and other calendars of events to which COUNTY posts information.
- F. COUNTY authorizes MOTOAMERICA to attach temporary signage on all appropriate County structures within the park. Except as may otherwise be limited by current contractual restrictions regarding the naming rights, annual sponsorships and advertising of structures and at locations within the LSRA, MOTOAMERICA will be allowed to place signage on bridges and crossings over the Racetrack beginning July 8th, 2020 and removed no later than July 13th, 2020. Other COUNTY structures include, but are not limited to, pedestrian and auto bridges, fencing and buildings. A list of other COUNTY structures exempted from this authorization, if any, will be provided to MOTOAMERICA by June 1st, 2020. MOTOAMERICA agrees to honor any current applicable contractual limitations regarding covering signage at the facility. MOTOAMERICA agrees to work with County to mitigate temporary signage conflicts that may arise during future contract negotiations with other parties.

SECTION V – RELATIONSHIP

Neither party hereto is the agent of the other and neither party shall have the right to act for or on behalf of the other or bind the other in any manner whatsoever. Neither party shall be responsible for any debts, obligations, or expenses incurred by the other party, whether or not in connection with the event contemplated hereby in the absence of written approval thereof in advance. MOTOAMERICA shall always clearly establish during the term hereof that COUNTY is not a co-partner or otherwise liable or obligated for any cost, expenses, or MOTOAMERICA's conduct of same. COUNTY makes no representation or warranty with respect to the suitability of the Laguna Seca Recreation Area for MOTOAMERICA's purposes nor the success or other results of MOTOAMERICA activities conducted hereunder.

SECTION VI-MOTOAMERICA'S OBLIGATION

- A. MOTOAMERICA shall complete and comply with a separate annual Special Use Event Application and Concession Agreement for Special Events and all required plans and approvals, approved by the County Designee, for each event at least 30 days prior to the event. (A copy of a current sample of the annual Special Use Event Application and Concession Agreement for Special Events is attached hereto as Exhibit "B".)
- B. MOTOAMERICA shall not commit or permit any injury or damage to any part of the LSRA or their appurtenances nor any waste thereon. All property utilized by MOTOAMERICA in the course of the operations contemplated hereby shall be returned to COUNTY in the same condition or repair after each program use, reasonable wear and tear expected and MOTOAMERICA shall not be responsible for patent or latent defects of LSRA that existed prior to the Event.

- C. MOTOAMERICA shall promptly arrange and pay to have repairs made for any damage, reasonable wear to tear excepted, to the LSRA or other facilities arising out of MOTOAMERICA's operation hereunder. MOTOAMERICA will complete all environmental repairs, as required by COUNTY, within fourteen (14) days following the Motorcycle Festival event. And whereas MOTOAMERICA shall not be responsible for patent or latent defects of LSRA that existed prior to the Event.
- D. MOTOAMERICA shall be responsible for and promptly pay all taxes and assessments of any kind whatsoever assessed or levied for the use of the LSRA and/or for storage of its personal property at the LSRA, including but not limited to taxable possessory interest if one is created by this Agreement. The payments of any such taxes, assessments or charges shall not constitute cause for modification of fees payable by MOTOAMERICA to COUNTY pursuant to this Agreement.
- E. MOTOAMERICA, its agents, employees, and patrons shall be bound by all existing federal, state, and county laws, ordinances, regulations and use permits that apply to LSRA and MOTOAMERICA's operations.
- F. MOTOAMERICA shall be responsible for and promptly obtain all necessary licenses and permits to conduct the event, including but not limited to those licenses necessary for the public performance of music if applicable, and shall comply with all applicable federal, state, and local laws and regulations in the performance of this Agreement.
- G. MOTOAMERICA shall be responsible for coordinating and gaining approval for the use of all roads providing ingress and egress to the LSRA, including roads maintained by Federal, State, and local agencies. County shall use commercially reasonable efforts to assist MOTOAMERICA in obtaining access to and use of roads not under County's jurisdiction and will cooperate with other agencies in obtaining such access and use; however, County cannot guarantee or warrant that such access shall be granted. Cost associated with gaining approval for use of roads for ingress and egress shall be the expense of MOTOAMERICA.

SECTION VII – INDEMNITY AND HOLD HARMLESS

MOTOAMERICA shall indemnify, defend, and hold harmless the County of Monterey and the United States of America their officers, agents, and employees from and against any and all claims, liabilities, and losses whatsoever (including, but not limited to, damages to property and injuries to or death of persons, court costs, and attorney's fees) occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, service, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any participant, person, firm, or corporation for damage, injury, or death arising out of or connected with MOTOAMERICA's performance of this Agreement, and or the use of the former Fort Ord road system and traffic circulation roads within the LSRA and the public performance of music, unless such claims, liabilities or losses arise out of the sole negligence or willful misconduct of COUNTY or the United States of America. "MOTOAMERICA's performance" includes MOTOAMERICA's action or inaction and the action or inaction of MOTOAMERICA's officers, employees, agents, and subcontractors.

SECTION VIII – INSURANCE AND INDEMNIFICATION

- A. MOTOAMERICA shall indemnify, defend, and hold harmless COUNTY and the United States of America, their officers, employees and agents from and against any and all claims, liabilities, and losses whatsoever (including, but not limited to, damages or resulting to any and all persons, firms, or corporations furnishings or supplying work, service, materials, or supplies in connection with MOTOAMERICA’S performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any participant, person, firm, or corporation for damage, injury, or death arising out of or connected with MOTOAMERICA’s performance of this Agreement, and or the use of the former Fort Ord road system and traffic circulation roads within the LSRA, and the public performance of music, excepting therefrom such claims, liabilities or losses arising out of the gross negligence or willful misconduct of County or the United States of America.

- B. County shall indemnify, defend, and hold harmless MOTOAMERICA, their officers, employees and agents from and against any and all claims, liabilities, and losses whatsoever (including, but not limited to, damages to property and injuries to or death of persons, court costs, and attorney’s fees) occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, service, materials, or supplies in connection with County’s performance of this Agreement, and from and all claims, liabilities, and losses occurring or resulting to any participant, person, firm, or corporation for damage, injury, or death arising out of or connected with County’s performance of this Agreement, and or the use of the former Fort Ord road system and traffic circulation roads within the LSRA, and the public performance of music, excepting therefrom such claims, liabilities or losses arising out of the gross negligence or willful misconduct of MOTOAMERICA, its officers and employees.

- C. Without limiting MOTOAMERICA’S duty to defend and indemnify County and the United States of America as set forth above, MOTOAMERICA shall provide insurance coverages for its use of the Facility as set forth below. County shall be named as an additional insured on all policies. Failure to maintain the required insurance shall be a Material Default. The cost of the insurance premium for the policy(ies) outlined below shall be at MOTOAMERICA’S expense.

- D. **Required Coverage.** Without in any way limiting MOTOAMERICAS’ liability pursuant to the “indemnification” section of this Agreement, MOTOAMERICA must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

- E. **Commercial General Liability/Motorsport Liability** insurance should include the following minimum limits each coverage; and

CGL/Motorsport Liability	Minimum Required Limit
Bodily Injury and Property Damage Liability	\$ 5,000,000
Damage to rented premise (Fire legal)	\$ 300,000
Medical Expense	\$ 5,000
General Aggregate	None
Products- Completed Operations	\$ 5,000,000

Personal Advertising Injury	\$ 5,000,000
Official Vehicle Property Damage	\$ 1,000,000

- F. **Liquor Liability** Insurance with limits not less than \$1,000,000 each occurrence, this is only applicable if MOTOAMERICA elects to sell or distribute alcohol; and
- G. **Participant Legal Liability** Insurance with limits not less than \$5,000,000 each occurrence; and
- H. **Racing Errors and Omissions** Insurance, applicable to Racing profession, with limits not less than \$100,000 each claim with respect to negligent acts, errors or omissions in connection with the services; and
- I. **Worker’s Compensation**, in Statutory amounts, with Employers’ Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- J. **Participant Accident Coverage:** Series shall be responsible for providing accident coverage for its participants, including officials, workers, and volunteers.
- K. **Additional Insured** Commercial General Liability or Motorsport Liability Insurance, Liquor Liability policies must be endorsed to provide:
 - K.1 County of Monterey, its agents, officers, directors and employees its agents, officers, as Additional Insured with respect to liability arising out of ongoing and completed operations.
 - K.2 Such policies will be primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement, and that insurance applies separate to each insured against whom claim is made or suit is brought.
 - K.3 If MOTOAMERICA carries or maintains an Umbrella/Excess Liability policy to provide additional coverage or if the contract requires higher limits than what MOTOAMERICA carries in the primary policies, County shall be added as additional insured on such policies.
 - K.4 The policy shall provide “drop-down” coverage where underlying primary insurance coverage limits are insufficient or exhausted.
 - K.5 Coverage must waive subrogation as respects to the additional insureds.
 - K.6 MOTOAMERICA shall provide to County a certificate of insurance evidencing the required coverages no later than thirty (30) days prior to the event. Upon County’s request, MOTOAMERICA shall provide full copies of all applicable insurance policies.
 - K.7 The Certificate of insurance and policy should list any deductibles MOTOAMERICA might be responsible to pay or reimburse.
 - K.8 If a satisfactory certificate is not received by January 31, 2020, County shall have the right, but not the obligation, to cause the Event to be insured for liability under the current County Insurance Plan. Certificates evidencing such coverage and a billing for

the appropriate premium charge therefore shall be sent to MOTOAMERICA. In case the premium charge is unpaid by a date seven (7) days prior to the scheduled commencement of the Event, County may cause the Event to be cancelled.

- K.9 General liability and Umbrella Policies need to be placed with at least A- rated carrier by A.M. Best.

SECTION IX – FORCE MAJEURE

- A. COUNTY and MOTOAMERICA shall be relieved of their obligation to the other if unable to perform the terms and conditions of this Agreement by virtue of governmental regulations or order, or by strike or war (declared or undeclared) or other calamity such as fire, earthquake, hurricane, or similar acts of God, or because of other similar or dissimilar cause or causes beyond their control.
- B. MOTOAMERICA acknowledges notice that COUNTY may terminate this Agreement at any time if the LSRA and facilities are required by COUNTY's grantor of the property hereunder, the United States of America, for the national defense.

SECTION X – BANKRUPTCY

This Agreement shall automatically terminate if:

- 1) MOTOAMERICA shall make an assignment for the benefit of creditors, file a voluntary petition for bankruptcy, or initiate a State court action for appointment of a receiver, or:
- 2) A proceeding in bankruptcy or for appointment of a receiver is commenced against MOTOAMERICA in any Federal or State court, unless the same is dismissed within thirty (30) days. In all such cases, the termination shall become effective as of the filing of such petition or the appointment of such receiver or trustee or the commencing of such court action, whichever occurs first and, immediately upon such termination, all rights hereunder shall revert to COUNTY.

SECTION XI – TRANSFER

- A. MOTOAMERICA shall not make or permit any Transfer of its interest in the Agreement without the prior written approval of the COUNTY. A Transfer is defined as a sale, sublease, subcontract of MOTOAMERICA's interest in this Agreement and/or a change in the composition or ownership of MOTOAMERICA, by any cause or for any reason, so that the current existing owners, as set forth in the attached statement of owners and interests, combined, control less than 50% of the equity and/or business control of MOTOAMERICA, INC.
- B. A request for Transfer must include information regarding the proposed Transferee, including the name, address, and ownership of Transferee; the nature of Transferee's business; Transferee's character and reputation; and Transferee's current financial statements (certified by an officer, a partner, or an owner of Transferee); all the terms of the proposed Transfer, including the consideration payable by Transferee; and a copy of all documentation concerning the proposed Transfer; and any other information or documentation reasonably requested by COUNTY.

- C. COUNTY may recover its reasonable fees and costs in determining whether or not to approve any Transfer, up to \$10,000.00, and such fees are due and payable whether or not the Transfer is approved. COUNTY must respond in writing to a request for Transfer within 45 days of submission to COUNTY of pertinent financial data of proposed Transferee.
- D. Notwithstanding any other provision of this Agreement, as the interest granted to MOTOAMERICA herein is a personal non-assignable license interest only, COUNTY may withhold its consent to any Transfer in its sole discretion, provided that such discretion shall not be exercised in an arbitrary or unreasonable fashion. Except as to the term and payment schedule set forth in Section II A and Section III A, COUNTY may impose such reasonable conditions upon the transfer as it deems appropriate. Further, any single consent to Transfer shall not be the basis for or implied consent to additional Transfers, and MOTOAMERICA shall remain liable under the Agreement, notwithstanding such approved Transfer.
- E. Any Transfer without the prior written approval and consent of COUNTY may, at the option of COUNTY, be viewed as a material and non-curable breach of this Agreement, and shall be void.
- F. This Agreement may be assigned by COUNTY to a LSRA facility manager subject to all terms and conditions stipulated within this Agreement.

SECTION XII – TERMINATION

- A. Notwithstanding any other term or condition contained herein, whether express or implied, either MOTOAMERICA or the COUNTY may terminate this Agreement with cause that is not cured within ninety (90) days and with written notice to the other party.
- B. Except in the case of an attempted Transfer without approval, which shall, at the option of COUNTY, be the basis for immediate termination, COUNTY may terminate this Agreement for breach of terms and conditions of this Agreement or any related annual Agreement for Special Events that are not first remedied upon sixty (60) days written notice.
- C. MOTOAMERICA shall well truly observe, fulfill and perform each term, covenant and condition of this Agreement and the related annual Concession Agreement for Special Events. In case of any breach of any term, covenant or condition of this Agreement and a failure by MOTOAMERICA to remedy the same upon thirty (30) days' notice, in addition to all other remedies, including termination of this Agreement, the damages pertaining to said breach shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and sureties upon the faithful performance bond or security.

SECTION XIII-COUNTY OVERSIGHT AND ACCESS

- A. COUNTY shall designate the County Representative for contract management purposes, and MOTOAMERICA shall ensure that the County Representative has full access to and complete information regarding all MOTOAMERICA'S activities related to the Event, and all other Management Premises operational and financial aspects as County determines to be necessary to adequately oversee implementation of this Agreement. Failure to provide the County Representative with the access and information set forth herein shall be a Material Default.

- B. Notwithstanding any other provisions of this Agreement, County and its agents shall have the right to enter the Facilities at any time for any appropriate purpose. Denial of such access shall be a Material Default.

SECTION XIV – NOTICES

Any notice pursuant to this Agreement shall be given in writing by a Party or its legal representative by (a) personal delivery, (b) reputable overnight delivery service with proof of delivery, (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, (d) legible facsimile transmission, or (e) electronic mail or other electronic means 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, or, in the case of facsimile transmission or electronic mail, as of the date of the facsimile or electronic transmission (or next business day if transmitted on a day other than a business day). Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

COUNTY:	KRAVE GROUP, LLC dba “MOTOAMERICA”:
County of Monterey	Krave Group LLC, dba “MOTOAMERICA”
Contracts/Purchasing Officer	3186-D Airway Avenue
1488 Schilling Place	Costa Mesa, CA 92626
Salinas, CA 93901	
(831) 755-4992	(209) 559-6591

SECTION XV – EQUAL OPPORTUNITY

MOTOAMERICA shall comply with the terms of this Agreement herein without any discriminatory practice based on sex, sexual preference, age, color, religion, handicap, marital status, national origin, or ancestry.

SECTION XVI – COMPLETE AGREEMENT

- A. This Agreement embodies the complete understanding of the parties hereto and cannot be amended or modified except in writing signed by each party hereto. Except as set forth herein, there are no other oral or written agreements, representations or warranties, express or implied.
- B. However, from time to time, COUNTY and MOTOAMERICA may enter into a Memorandum of Understanding to address specific details on maintenance and operations pursuant to and consistent with the provisions of this Agreement.

SECTION XVII – CONTROLLING LAW

This agreement and all disputes hereunder shall be interpreted under and governed by the laws of the State of California and venue for all actions to enforce the terms of this Agreement shall be the County of Monterey.

SECTION XVIII– NO REPRESENTATION OR WARRANTY OF FITNESS

MOTOAMERICA acknowledges that it has been advised by COUNTY that the conditions, facilities, and area in the LSRA which MOTOAMERICA is authorized to use in accordance with this Agreement has not been represented as being fit for MOTOAMERICA's intended use or for any particular use. MOTOAMERICA acknowledges that it has been advised to inspect the condition, facilities, and other areas MOTOAMERICA is permitted to use hereunder prior to the issuance of this Agreement, and/or prior to MOTOAMERICA's actual use from time to time. Based upon MOTOAMERICA's personal inspection or upon MOTOAMERICA's right to inspect, MOTOAMERICA further acknowledges that the conditions, facilities, and other areas are safe and adequate for MOTOAMERICA's intended use. MOTOAMERICA shall have exclusive use of the LSRA as described above during periods of time MOTOAMERICA is scheduled to use the facilities under this Agreement. MOTOAMERICA shall be responsible for all equipment and for adequate safeguards for the protection of MOTOAMERICA and others.

SECTION XIX – AGREEMENT SUBORDINATION

This Agreement is subject to and subordinate to all the terms and conditions of the following:

- 1) The certain quitclaim deed with the United States as Grantor and the County of Monterey as Grantee dated the 31st day of October 1974, and recorded in 944, page 1077, Monterey County Records, as amended on August 6, 1986 and recorded in Monterey County Official Records at Reel 2012 Page 235, and on January 21, 2000 by Document No. 2000082485, Monterey County Official Records, and that certain Use Agreement, permit number 2991 issued by the County Planning Commission on or about October 26, 1983, pursuant to Resolution number 83-376, copies of which are on file at the County Administrative Office headquarters at 168 W. Alisal Street, Salinas, California.
- 2) MOTOAMERICA acknowledges reading the foregoing documents and knowing the contents thereof.
- 3) MOTOAMERICA also acknowledges that COUNTY has the right and authority to enter into agreements with others for the Naming Rights to the LSRA, all or part of its facilities, and independently has the authority and right to change or modify the name of the LSRA at any time and for any reason or for none. In the event that COUNTY decides to change the name of the LSRA or enter into contractual relationships regarding the naming rights for the LSRA as a whole or any structures contained therein, MOTOAMERICA agrees that it shall be bound to the use of those names and to honor and not cover over the signage that may become affixed to those structures in the future, if so required by COUNTY.

SECTION XX – FAITHFUL PERFORMANCE BOND

- A. Thirty days prior to the event, MOTOAMERICA shall provide COUNTY with a bond in the amount of \$30,000 as a security bond to guarantee payment of any monies which may be payable to COUNTY under this Agreement; any damage to LSRA; utility charges, if any; removal by COUNTY of MOTOAMERICA'S personal property as may be left on the premises in violation of terms of this agreement; and cost to COUNTY of restoring premises occupied and left by MOTOAMERICA in unsatisfactory condition. MOTOAMERICA may at its option provide County with a certified check as security deposit in lieu of this bond to be held by County and returned 30 days after County accepts receipt of LSRA as in acceptable condition upon inspection

County has the sole right to cash/deposit check and determine amount and method to remit to MOTOAMERICA at end of event after County inspection of LSRA.

- B. Neither the provisions of this section, any bond or security accepted by COUNTY pursuant thereto, nor any damages recovered by COUNTY thereunder shall be construed to excuse faithful performance by MOTOAMERICA or limit the liability of MOTOAMERICA under this Agreement or for damages, either to the full amount of the bond/security or otherwise.

SECTION XXI – MISCELLANEOUS PROVISIONS

- A. Complete Agreement: This Agreement constitutes the full and complete agreement between the Parties regarding the subject matter hereof.
- B. Amendment: This Agreement may be amended from time-to-time by mutual consent of the Parties. Such amendments may only be in the form of a writing signed by each of the parties.
- C. Dispute Resolution: If there are disputes and/or controversies between the Parties relating to the interpretation, construction, performance, termination, breach of, or withdrawal from this Agreement, the Parties shall in good faith meet and confer within twenty-one (21) calendar days after written notice of a dispute has been sent by one Party to the other Party. If the parties are not able to resolve the dispute through informal negotiation, the Parties agree to submit such dispute to formal mediation before resorting to litigation. If the Parties cannot agree upon the identity of a mediator within ten (10) business days after a Party requests mediation, then the Parties shall each select a mediator and those two (2) mediators shall select a third mediator to mediate the dispute. The Parties shall share equally in the cost of the mediator who ultimately mediates the dispute, but neither Party shall be entitled to collect or be reimbursed for other related costs, including but not limited to attorneys' fees. If mediation proves unsuccessful and litigation of any dispute occurs, the prevailing Party shall be entitled to reasonable attorneys' fees, cost and expenses in addition to any other relief to which the Party may be entitled. If a party refuses to participate in mediation prior to commencing litigation, that Party shall be deemed to have waived its rights to attorneys' fees and costs as the prevailing Party.
- D. Execution in Parts or Counterparts: This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered and constituting one complete original and may be attached together when executed by the Parties. Facsimile or electronic signatures shall be binding.
- E. Party Authorization: The governing bodies of the Parties have each authorized execution of this Agreement, as evidenced by their respective signatures below.
- F. No Predetermination or Irrevocable Commitment of Resources: Nothing herein shall constitute a determination by County or MOTOAMERICA that any action shall be undertaken or that any unconditional or irrevocable commitment of resources shall be made until such time as required compliance with all local, state, or federal laws, including without limitation the California Environmental Quality Act, National Environmental Policy Act, or permit requirements, as applicable, have been completed.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date set forth above.

MOTOAMERICA, INC
By: Wynne Ras
Title: President 12/18/2019

By: _____

Title: _____

COUNTY OF MONTEREY
By: Michael E Derr CONTRACTS/PURCHASING OFFICER
Title: _____ COUNTY OF MONTEREY
Chair Monterey County
Board of Supervisors ms
01-08-2020

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

Name: Leslie J. Girard

Signature: Leslie J. Girard
~~Deputy~~ County Counsel

Reviewed as to fiscal provisions

B. M. ...
Auditor-Controller
County of Monterey

12/19/19

Additional Documents:
EXHIBIT A – Map of Laguna Seca Recreation Area
EXHIBIT B – Special Use Event Application and Concession Agreement for Special Events

Exhibit-A Facility Map

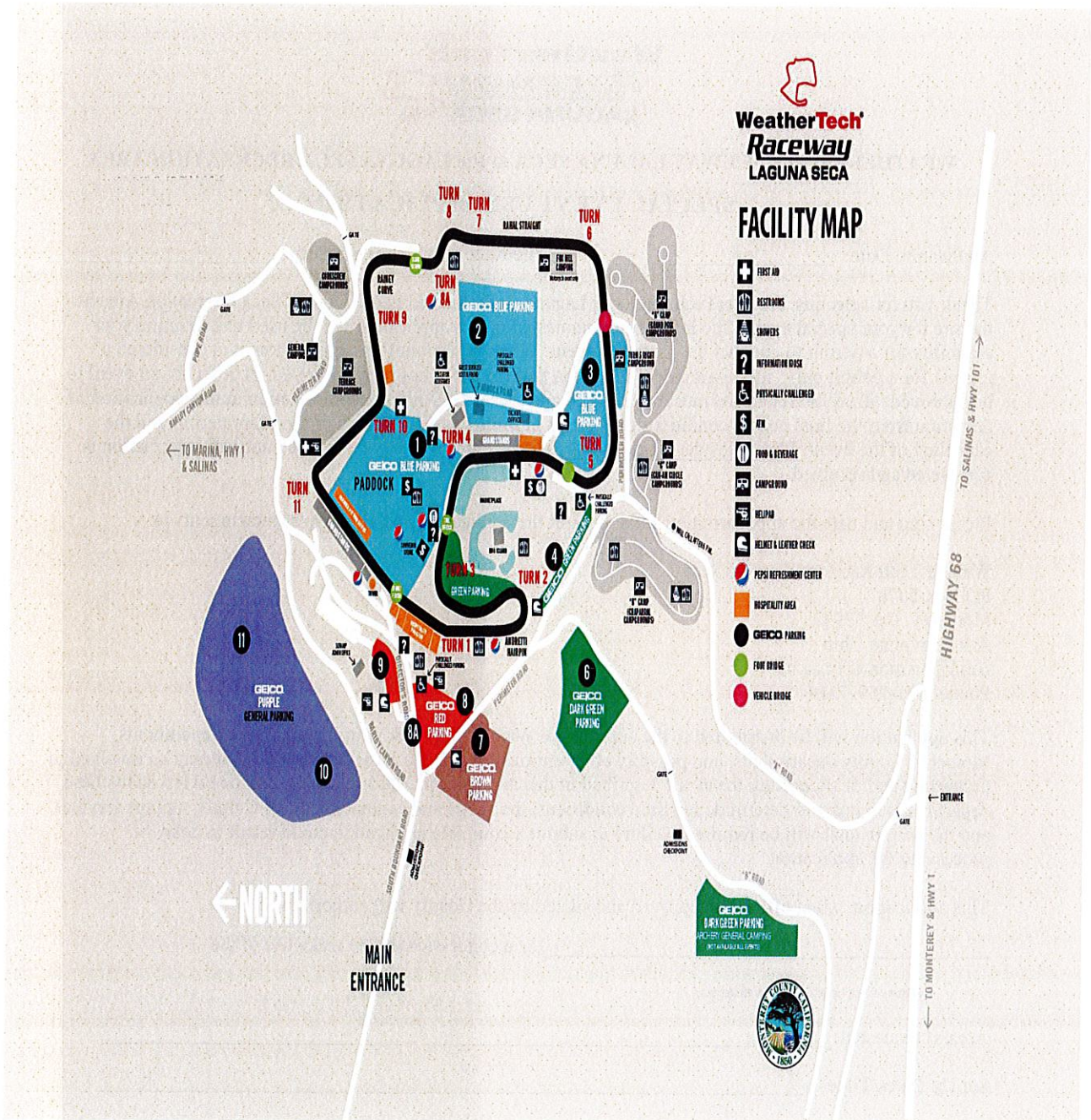


EXHIBIT B – Special Use Event Application and Concession Agreement for Special Events



**WEATHERTECH RACEWAY LAGUNA SECA at the LAGUNA SECA RECREATION AREA
SPECIAL EVENT USE APPLICATION**

Application Date: _____ Date Received by Laguna Seca: _____

Thank you for selecting WeatherTech Raceway Laguna Seca, located in the Laguna Seca Recreation Area as the site for your special event. The information requested in this application will be used to determine your eligibility for a permit to conduct the proposed event. When you submit this application, it is considered a request for a permit only; submission does not mean that the event has been approved. In order for an event to be approved, all required permits must be obtained and fees paid. Any misrepresentation in this application or deviation from the final permit conditions may result in immediate revocation of the event permit and the canceling of the event. Please answer all questions. Your application may be delayed until all information is completed and received.

Please sign and date the application by hand. Submit the application and all required attachments to:

WeatherTech Raceway Laguna Seca
PO Box 2078
Monterey, CA 93942
Attn: Lavonne Chin
chinl@co.monterey.ca.us
Phone: 831-759-7214

This application will be distributed to the appropriate WeatherTech Raceway Laguna Seca departments, Monterey County departments, and possibly other entities such as the local fire district, that may be involved in permitting and/or supporting the event described in this application. The application will be reviewed by these departments in order to determine required conditions, the scope and estimated cost of County support services, and the permits that will be required. Failure to submit a complete application could result in delay of processing the application.

This application, when officially approved and signed by the County will authorize:

_____, as a concessionaire, to make use of the

(Name of Applicant/Host Organization)

Area(s) requested: _____

Set Up Dates/Times: _____

Event Dates/Times: _____

Cleanup Dates/Times: _____

For _____, subject to the following conditions:
(Event Name)

1. Organization Address: _____
2. Event Contact Name: _____
 - a. Phone and Cell Phone: _____
 - b. Email: _____
3. Event Description (including programs, activities, entertainment and schedule):

4. Attendance: _____

Minimum attendance: _____

Maximum attendance (The County may limit maximum attendance at its discretion):

5. Method of limiting attendance to the maximum number of persons permitted:

6. Event will have amplified music: ____ Yes ____ No

If yes, describe. _____

7. If this event is a fundraiser, list the beneficiaries: _____

8. Applicant will have not less than ____ employees and ____ volunteers in the Park unit during the period of this Special Event.
9. Food and beverages will be prepared, sold, or served at the Event: ____ Yes ____ No
10. Equipment will used at the event, such as tents, stage, canopies, bounce houses: ____ Yes ____ No
11. Alcohol will be sold or served at the Event: ____ Yes ____ No
12. Applicant must provide the following information (responses may be submitted on a separate sheet if they do not fit in the space provided):
 - a. Purpose of the proposed event, the necessity therefore, and the reason why it is considered to be compatible with the use of the Laguna Seca Recreation Area:

 - b. List of applicant's proposed fees/charges:

Admission/Entrance Ticket: _____

Vendor Space: _____

Participation: _____

Other: _____

- c. Estimated gross receipts: _____
- d. Estimated net profit: _____
- e. Method of garbage collection and disposal to be used: _____

- f. List of vendors and items they are selling during the event (event and vendors must have permits as required by Monterey County Health Department, Monterey County Regional Fire District and CA State Board of Equalization, all outside vendors must show proof of insurance):

- g. Proposed fire control measures and additional firefighting equipment to be furnished by applicant as required by the Director of Resource Management Agency, his designee or the local fire marshal: _____

- h. Proposed first-aid service to be supplied by applicant, including ambulance services, doctors or nurses: _____

- i. Additional police protection or security (provided by applicant and at their expense):

- j. Parking and Traffic Plans and Personnel, as required for traffic control (provided by applicant and at their expense): _____

- k. Additional sanitary facilities as required by the Director of Resource Management Agency, his designee, or the Monterey County Health Department (provided by applicant and at their expense):
Vendor providing services: _____
Location(s) of additional facilities: _____

Date of placement: _____
Date of removal: _____
Date(s) of service: _____
- l. Submit information on all the organizations involved, whether sponsors, recipients, or promotional firms and their objectives, purposes and financing:

13. Applicant may be required to post security or a bond with the County, depending on circumstances of the special event and probabilities of damage.

- 14. Applicant will be required to provide insurance covering their special event.
- 15. The County may terminate any special event activity when he deems it is necessary for the safety and enjoyment of the public, for the protection of resources, or for violation of any rules and regulations of the County Park System.
- 16. Additional details will be addressed in an agreement between parties and additional detailed plans may be required. Applicant does not have a binding agreement with COUNTY until the application has been duly accepted and the Event Application has been signed by both County and Concessionaire.
- 17. Contacts in regard to the permit generally may be made through the Special Events Manager by calling (831) 759-7214.

REQUESTED BY:

(Signature)

(Name)

(Title)

(Date)

1021 Monterey-Salinas Highway, Salinas, CA, 93908

(Address)

(City, State, Zip)

MONTEREY COUNTY
RESOURCE MANAGEMENT AGENCY
 Carl P. Holm, AICP, Director



Building Services / Environmental Services / Planning Services / Public Works & Facilities
 1441 Schilling Place South, 2nd Floor (831)755-4800
 Salinas, California 93901 www.co.monterey.ca.us/rma

SPECIAL EVENT INFORMATION QUESTIONNAIRE

By providing the following information the RMA Permit Coordinator can help you develop a safe and successful event by assisting you with the coordination of county departments and state agencies. You may email this form to Permit Coordinator Freda Escobar at Escobar@co.monterey.ca.us or, mail it to ATTN: Freda Escobar, 1441 Schilling Place, South 2nd Floor, Salinas, California 93901 or fax it to (831) 9516.

NOTICE TO APPLICANT: Filling out this questionnaire is not a permit or permit application and does not guarantee the issuance of a permit. This is an information gathering tool that will be used to guide you through the permitting process surrounding hosting a special event in Monterey County.

Name of Event: _____

Day(s) of Event: From: ____/____/____ To: ____/____/____

Event Location: _____

Organization: _____

Contact Person: _____

Address: 1021 Monterey-Salinas Highway, Salinas, CA, 93908

Assessor's Parcel Number: 173-011-023-000

Telephone: Day: _____ Evening: _____ Fax: _____ Cell: _____



Anticipated Attendance at Event: Total _____ Average per Day _____
 1st day _____ 2nd day _____ 3rd day _____ 4th day _____

Date/Time

Setup: Date _____ Time _____ Day of Week _____

Event Starts: Date _____ Time _____ Day of Week _____

Event Ends: Date _____ Time _____ Day of Week _____

Dismantle: Date _____ Time _____ Day of Week _____

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



Building Services / Environmental Services / Planning Services / Public Works & Facilities
1441 Schilling Place South, 2nd Floor (831)755-4800
Salinas, California 93901 www.co.monterey.ca.us/rma

YES NO

- Is this an annual event? If so, how many years _____
- Are admission, entry or participant fees required?
- Is the Organization a commercial entity?
- Is the Organization a tax exempt, nonprofit entity?

Do you expect any of the following actions or activities to occur?

Yes No

- Road closures: County: State: Both:

If yes, list roads to be closed:

- Will Major traffic arteries be affected by your event (streets/ highways/ intersections)?

If yes, please list:

- Use of Alcohol: Sold Free Types: _____
- Musical Entertainment: Type: _____
- Use of Sound Equipment: Type: _____
- Dancing: Inside ___ Outside ___
- Temporary Structures: If yes, what type and size?
 ___ Tents: How many: ___ Type: _____ Size: _____
 If tents, will there be cooking inside the tent? Yes ___ No ___
 If tents, will there be electrical plumbing, HVAC? Yes ___ No ___
 ___ Bleachers: How many: ___ How high: _____
 ___ Stages: How many: ___ How high: _____

MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director



Building Services / Environmental Services / Planning Services / Public Works & Facilities 1441 Schilling Place South, 2nd Floor (831)755-4800

Salinas, California 93901 www.co.monterey.ca.us/rma

Other structures: Describe: _____

Will any structures be elevated 30 or more inches? Yes No If yes, list structures: _____

Food vendors: How many: _____
 _____ Food to be cooked on-site Gas: _____ Electric: _____ Charcoal: _____

Other Vendors: How many: _____ Types: _____

Off-site parking: Where: _____ Est. No. of vehicles _____

Security: In-house _____ Private Company _____ List Company: _____

Use of professional medical services provider: List Company: _____

Will all venues provide reasonable accommodations to the disabled?

Will the event be filmed?

Will you use traffic safety equipment? List _____

Notified surrounding residents/businesses of event? How? _____

Insurance will be provided. Company: _____

How will restrooms be provided? Portable Toilets _____ Flush Toilets _____

Will water be provided? Bottled water _____ Tap water _____

Will the event include Body Art Services - tattoo, body piercing, branding or permanent cosmetics?

Will the event include a petting zoo or animal rides?

Please describe the flow of patrons and vehicles. (i.e., entrances, exits, traffic flow patterns)

Name of Preparer: _____

Date: _____

12/17/2019 MRD