Monterey County
Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Agreement No.: A-13136

Upon motion of Supervisor Salinas, seconded by Supervisor Armenta and carried by those members present, the Board of Supervisors hereby:

Approved agreement between Monterey County and Urban Park Concessionaires, doing business locally as "Monterey Lakes Recreation Company", approving the agreement retroactively to February 1, 2015 and extending the current term through July 26, 2016 for management services of resort business operations at Monterey County Parks lakes resort.

PASSED AND ADOPTED on this 17th day of May 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter
NOES: None
ABSENT: None

I, Gail T. Borkowski, 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 79 for the meeting on May 17, 2016.

Dated: May 17, 2016
File ID: 16-580

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

AGREEMENT BETWEEN THE COUNTY OF MONTEREY AND URBAN PARK CONCESSIONAIRES DBA MONTEREY LAKES RECREATION COMPANY RESTATING TERMS OF MAY 3, 2011 AGREEMENT WITH ADDENDUMS NOS. 1 AND 2

WHEREAS, Urban Parks Concessionaires, A California Corporation, DBA Monterey Lakes Recreation Company ("CONTRACTOR"), and the County of Monterey a political subdivision of the State of California, ("COUNTY") previously entered into an agreement dated May 3, 2011, and effective through October 31, 2012, to manage the resort business at Lake San Antonio and Lake Nacimiento ("PRIOR AGREEMENT"); and

WHEREAS, COUNTY and CONTRACTOR amended the PRIOR AGREEMENT previously on October 23, 2012, to provide for a one-year extension through October 31, 2013, via ADDENDUM NO. 1; and

WHEREAS, COUNTY and CONTRACTOR amended the PRIOR AGREEMENT previously on March 18, 2014 to extend the term through January 31, 2015 via ADDENDUM NO. 2; and

WHEREAS, the terms of the PRIOR AGREEMENT, as referenced and adopted in this AGREEMENT, include the amendments made by ADDENDUM NOS. 1 and 2; and

WHEREAS, the PRIOR AGREEMENT expired pursuant to its terms on February 1, 2015; and

WHEREAS, COUNTY and CONTRACTOR wish to enter into a new agreement ("AGREEMENT") on substantially the same terms as previously agreed to and retroactive to February 1, 2015; and

NOW THEREFORE, for valuable consideration, the sufficiency of which is hereby acknowledged, COUNTY and CONTRACTOR agree as follows:

1. All of the terms of the PRIOR AGREEMENT, as amended by ADDENDUM NOS. 1 and 2, a copy of which is attached hereto as Exhibit A, excepting the effective dates and term of duration, are hereby incorporated into and agreed to in this AGREEMENT.

2. Notwithstanding the above, Section 3 of ADDENDUM NO. 2 deleting Section 3.9 of the original PRIOR AGREEMENT is not incorporated herein; the parties agree that Section 3.9 concerning marketing activities is included as a term of this AGREEMENT.

3. This AGREEMENT shall be effective retroactively to February 1, 2015, and all of its provisions shall be deemed to have been in effect continuously since that time.

4. The term of this AGREEMENT shall be from February 1, 2015 through October 31, 2017.

IN WITNESS WHEREOF, the County and CONTRACTOR execute this AGREEMENT as follows:

COUNTY OF MONTEREY

Contracts/Purchasing Officer

Dated: 7-6-16

CONTRACTOR

By: *Signature of Chair, President, or Vice-President*

JOHN W. KOEBBER CEO

Printed Name and Title

Dated: 3/21/16

Dated:

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

Printed Name and Title

Dated:

Dated:

Approved as to Form:

Deputy County Counsel

Dated:

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the 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 Amendment.

EXHIBIT

A

MANAGEMENT AGREEMENT

This Management Agreement (hereinafter the "Agreement") is made as of this 11th day of May 2011 by and between COUNTY of Monterey and the Monterey County Water Resources Agency (hereinafter collectively referred to as "COUNTY"), whose principal address is 168 West Alisal Street 3rd Floor Salinas, California 93901, and URBAN PARK CONCESSIONAIRES (DBA: Monterey Lakes Recreation Company), a California Corporation, (hereinafter referred to as the "CONTRACTOR") whose principal address is 2150 Main Street, Suite 5, Red Bluff, California 96080.

RECITALS:

WHEREAS, COUNTY has invited proposals through a Request for Proposal #10283 (hereinafter referred to as the RFQ) to obtain responses from qualified managers to operate certain recreational facilities at both Lake Nacimiento and Lake San Antonio, which are owned by COUNTY; and

WHEREAS, CONTRACTOR submitted a written letter of interest in response to the RFQ to management services; and

WHEREAS, COUNTY determined that it was in the best interest of COUNTY to proceed with negotiations directly with CONTRACTOR for potential provision of the desired management services as "Operator" of the Lake Nacimiento and Lake San Antonio Resort facilities pursuant to the RFQ.; and

WHEREAS, COUNTY operates the two (2) reservoirs for the primary purposes of groundwater recharge and flood-control, and these purposes will always take precedence over recreation related businesses at the reservoirs, CONTRACTOR must always take these two (2) purposes into consideration in planning and implementing business operations which are requested by COUNTY, and

WHEREAS, non-water dependent recreational activities are less likely to be impacted by reservoir operations, COUNTY supports and encourages their development, and

WHEREAS, CONTRACTOR represents that it has the expertise, experience, and capabilities to provide the business management, finance, product strategy, and has been successful in operating resorts such as those available at other existing public and private resorts where reservoir water levels are subject to substantial changes caused by weather and/or man made actions, and other matters relating to the business operations indicated in the RFQ in a timely and professional manner, which could result in a temporary withdrawal of marina activities and related services, upon notice to COUNTY and subsequent approval ; and

WHEREAS, CONTRACTOR has indicated that it has over thirty-five (35) years of experience in marina and campground operations throughout the United States. CONTRACTOR operates in several locations throughout the State of California such as Lake Chabot (East Bay Regional Park District), Diamond Valley Lake Marina (Metropolitan Water District), San Pablo Reservoir (East Bay Municipal Utilities District) and Camanche Lake (District and Regional Water Quality Control Board).

WHEREAS, CONTRACTOR's team is a made up of a strong network of well-trained and dedicated professionals in lake and marine operations, all of which are located within California; and

WHEREAS, COUNTY desires to avail itself of the expertise of CONTRACTOR in the aforesaid areas, in which it acknowledges the expertise of CONTRACTOR as a Resort/Marina Operator.

NOW, THEREFORE, it is the Parties intent that the above recitals be a substantive part of the consideration for this Agreement in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the parties hereto as follows:

AGREEMENT

1. APPOINTMENT

COUNTY hereby appoints CONTRACTOR as "Operator" to provide the resort management services to COUNTY as described in Paragraph 3 for the resort operations at Lake San Antonio and Lake Nacimiento during the term of this Agreement.

2. TERM

The initial term of the Agreement shall be for eighteen (18) months and shall commence with the signing of the Agreement through and including October 31, 2012, with an option to extend the Agreement and amend as necessary for additional periods upon the agreement of both parties to be negotiated later.

3. SERVICES AND OPERATIONS

CONTRACTOR agrees that during the term of this Agreement it will provide to COUNTY, by and through its officers, employees, and representatives, management services (hereinafter referred to as "Services") for COUNTY operations located at Lake San Antonio and Lake Nacimiento (hereinafter "Resort Operations") as follows:

3.1 CONTRACTOR will provide, operate and maintain visitor services as directed by COUNTY, to such an extent and in a manner considered satisfactory by COUNTY, including but not limited to having one (1) General Manager, one (1) Marina Manager, and one (1) Operations Manager, who works on site at one or both of the Resort Operations. COUNTY does not and will not stipulate which position is required to live on site, but individual must be in a position of authority within the CONTRACTOR staffing structure. CONTRACTOR will be responsible for ensuring that one of the above positions lives on site at either one of the lakes. COUNTY shall only provide one housing unit to be used by any of the three (3) Managers; COUNTY shall not be otherwise responsible for the housing costs or expenses of the Managers who live off site. CONTRACTOR and COUNTY agree that, if the General Manager does not live on site, the General Manager must be a full-time resident domiciled within a forty-five (45) mile radius of the Nacimiento Administrative Facility, located at Lake Nacimiento. COUNTY shall provide CONTRACTOR the use of both the real and personal property (buildings, facilities, structures, equipment and inventory) as described within Attachment-A for providing, operating and maintaining visitor services during the term of this Agreement.

3.2 CONTRACTOR will be responsible for human resources management of the resort operations. Human resources management will include recruiting, selection, hiring, retention, termination, and overall employee management. Employees of the operations will be employees of CONTRACTOR. Employee benefits will be based on CONTRACTOR's Employee Benefit Policy.

3.3 All rates and charges to the public by CONTRACTOR for visitor services will be reasonable and appropriate for the type and quality of facilities, equipment and products provided. CONTRACTOR will propose rates/pricing for visitor services and COUNTY will review and approve the final rates/pricing charged to the visitors prior to implementation.

3.4 In all phases of CONTRACTOR's services and management, CONTRACTOR recognizes and agrees that COUNTY has and maintains absolute entitlement, to use of, and release of all waters within the respective reservoir. Further that COUNTY will from time to time as it solely deems necessary release or add water to each reservoir, and it is agreed COUNTY may do so without regard to the effect, if any, as to CONTRACTOR's revenue, income or profit, whether gross or net.

3.5 CONTRACTOR recognizes and agrees that each 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.

3.6 CONTRACTOR agrees that its management will be guided and directed in such a fashion to take various opportunities to render the Resort Operations less dependent on the reservoir levels.

3.7 CONTRACTOR agrees that any additional services initiated by CONTRACTOR under this Agreement will be negotiated on a case-by-case basis and documented in the form of a written addendum to this Agreement, approved in writing by both parties.

3.8 CONTRACTOR agrees to bring forth as deemed necessary recommendations to upgrade existing services and/or facilities to further advance pre-existing or existing recreational services.

3.9 CONTRACTOR agrees to provide Administrative and Support Services for a fixed annual fee of $80,000; and Marketing Leadership and Creative Guidance for marketing campaigns and customer service programs for a fixed annual fee of $30,000.

The staff and services identified in Sections 3.12.1 through 3.12.2.8 below will be housed in CONTRACTOR's corporate offices located in Red Bluff, California. CONTRACTOR agrees that the services described below will participate on site to the Resort Operations during the start-up phases for training and development. CONTRACTOR will provide additional on-site clerical and accounting staff as may be required during the initial start-up for a business of this size and scope.

3.9.1 Key Contacts for Administrative and Support Services:

Contractor: Controller, Urban Park Concessionaires

County: Finance Manager, County Parks Department

3.9.2 The following information is provided by CONTRACTOR to describe the scope of those services and personnel to be provided in meeting the requirements within this section:

3.9.2.1 Controller

- Develop, analyze, and interpret statistical and accounting data. Appraise operating results in terms of profitability, performance against budget, and the overall fiscal soundness and operational

effectiveness of the company. Assist in establishing economic objectives and policies. Oversee financial forecasting and budgeting processes. Provide detailed reporting as required.

- Maintain and administer contracts executed with COUNTY. Serve as primary internal contact regarding financial issues, procedures, requests for information, and special projects as required.
- Evaluate and oversee loss and liability for all insurance coverage
- Serve as 401k trustee
- Ensure compliance with all federal, state, local, corporate, payroll and other applicable taxes.
- Provide Point of Contact with COUNTY for top-level audits as required
- Serve as resource on Human Resource issues, including but not limited to: time and attendance program; employment and personnel policy; reviews; OSHA; compliance to laws and regulations impacting employees and company; required employee training.
- Manage all corporate accounting activities, either directly or through subordinate organization structure. Provide leadership and establish standards of performance for team.
- Directly supervise Senior Accountant and Department Supervisor; ensure that all assigned tasks are completed in a timely and accurate manner. Provide leadership to staff and maximize employee skill development.

3.9.2.2 Senior Accountant

- Generate and distribute financial statements monthly as required
- Review and sign off on quarterly payroll tax returns
- Oversee all monthly corporate allocations
- Review all bank balances as required; transfer funds as required
- Generate monthly revenue reports for fees and all other COUNTY reporting requirements
- Review and book al monthly inventories as scheduled
- Process and submit all Business Property Tax Statements. Submit invoices for payment and monitor accruals
- Monitor, reconcile, and review e-tail sales
- Ensure timely distribution of initial budget information to CONTRACTOR's managers
- Serve as Solomon administrator
- Define and diagnose relevant information and recommend alternatives, upgrades, etc.
- Serve as resource for all rules and accuracies regarding sales tax as it applies to COUNTY's sales categories
- Serve as primary audit source for accounting activities
- Assure location compliance with pay rules and computation
- Perform time card audits to include location records

3.9.2.3 Account Coordinator

- Manage cash receipts from a variety of locations and in a variety of reporting formats
- Perform bank reconciliation for all "Main" bank accounts
- Manage petty cash reimbursement process
- Perform numerous GL tasks including but not limited to: generating and monitoring monthly recurring entries; petty cash disbursements and petty cash 1099 vendor schedule, all location transfers; sales tax

return and accrual entries; postage allocation; occupancy tax return and accrual entries; assets/depreciations changes/entries and audit reports for tax returns at year end.
- Submit inter-county to AP for monthly reimbursement
- Perform all weekly comparisons in a timely manner
- Manage fishing license process and submit to Department of Fish and Game in a timely manner
- Handle Workers Comp monthly accruals and reporting
- Process labor entries for all inter-county payroll transactions
- Make miscellaneous daily deposits to the financial institution as necessary
- Update cashbook as required for deposits
- Ensure bad checks are processed for collection
- Train as back-up to COUNTY accounting tasks as required
- Ensure that procedures are compliant and updated at all times
- Perform a variety of audit activities

3.9.2.4 Accounts Payable
- Process and accurately distribute AP mail daily
- Input invoices to system daily
- Release batches daily
- Obtain GL coding approval and follow up as needed
- Generate recurring invoices as required
- Verify AP edits for description, GL code, pay date and period to post
- Generate various required reports and spreadsheets
- Match invoices to statements prior to issuing checks
- Reconcile all vendor/invoice incorrect payments as required
- File all AP related documents weekly
- Monitor and submit all credit applications in a timely manner
- Vendor contact as required
- Reports/Audits including but not limited to: DE542'; 1099's; AP to GL tie schedule
- Track DMV registration renewals and schedule for payment
- Track permit renewals and schedule for payment
- Phone system administration as required

3.9.2.5 Accounts Receivable/Accounts Payable
- Review and stay current with all scheduled site activities
- Process event billings
- Handle bank deposits and credit card deposits for all events
- Update cash book as required for all event deposits
- Maintain payment log for file and managers' reference
- Monitor/change AR related allocations as required
- Handle all related Solomon entry/input
- Generate deposit liability report as required
- Provide timely month-end data to Accounting Coordinator/Accounting Supervisor/Manager
- File all related documents weekly
- Distribute via fax or email new invoices to site and/or COUNTY
- Generate reports as required, including but not limited to: sales reports to HPG; weekly comparison information to Accounting Coordinator; weekly AR report to Controller; AR collection
- Perform audit activities as required

- Additional Functions as needed:
- All duties as described for Accounts Payable Coordinator. (direct daily work for part time, temporary AP clerk during peak season)
- Perform audit activities as required
- Process Lodging Reservation letter and submit as required. Keep procedures updated
- Process Season Pass sales to walk-in customers

3.9.2.6 Payroll Coordinator

- Manage all payroll including payroll records for all locations
- File quarterly reporting requirements for Internal Revenue and State Franchise Tax Board
- Annual payroll processing and filing of W-4's
- Maintain 1099 records for contractors and subcontractors
- Secure personnel records in filing system and digital versions

3.9.2.7 Corporate Officer Duties Supported by Administration Staff

- All top level correspondence with COUNTY leadership
- Oversight of concessions operations General staff to the satisfaction of contractual obligations
- Develop strategic plan and provide guidance to the corporation regarding policies that are of importance to COUNTY clients including green initiatives and healthy choice initiatives
- Regional, statewide and national recreation and hospitality industry contacts and relationships
- Meeting with and provide leadership to industry consortium opportunities including National Parks Hospitality Association (Board Secretary), California Parks Hospitality Association (Chairman), California Roundtable for Recreation, Parks and Tourism (Founding delegate), California Tourism Commission (Commissioner) and local and state Chambers of Commerce (Past President)
- Maintain local, state and national contacts with the legislative and executive branches of government to act as an advocate for COUNTY and COUNTY needs

3.9.3 Marketing

- Services include Marketing Plan, Customer Service Plan, Community Service Plan, Social Networking Coordinator, web site design and support, print and direct mail design and overall support the branding of the Monterey Lakes Resorts. Direct production and fulfillment costs are not included in the annual fee

4. TRANSITION COSTS

Any and all transition costs must have the prior written approval of COUNTY. This Agreement does not include any pre-authorized transition costs.

5. ALCOHOLIC BEVERAGE LICENSES

Included in COUNTY's assets of the previous operator of both resorts, COUNTY acquired six (6) State of California, Department of Alcoholic Beverage Control Licenses (hereinafter referred to as "Licenses"), identified as follows:

5.1 Lake Nacimiento

- Permit #20-12923 Off Sale Beer and Wine Store
- Permit #20-12926 Off Sale Beer and Wine Marina
- Permit #41-16597 On Sale Beer and Wine Eating Place

5.2 Lake San Antonio

- Permit #20/41-271152 Off Sale/On Sale Beer and Wine Marina/Eating Place
- Permit #20-271150 Off Sale Beer and Wine South Shore Store
- Permit #20-271151 Off Sale Beer and Wine North Shore Store

Under this Agreement the herein described Licenses will be transferred to CONTRACTOR at no cost, and are to be used by CONTRACTOR to provide the Services for COUNTY operations at each of these locations during the term of this Agreement. Upon termination of this Agreement, CONTRACTOR hereby agrees to transfer at no cost the aforementioned Licenses standing in CONTRACTOR's name to such other party so designated by COUNTY to assume the management services herein provided. Any and all revenues by CONTRACTOR from the sale of all alcoholic beverages under these Licenses shall be retained by CONTRACTOR as the sole property of CONTRACTOR and shall not be deposited into the Operating Account. CONTRACTOR shall maintain a separate accounting for all such revenues. COUNTY shall have no interest, whatsoever, in the revenues from the sale of alcoholic beverages as long as the Licenses are held in CONTRACTOR's name.

5.3 Calculation of Management Fee for Alcoholic Beverage sales

Alcoholic beverage sales shall be equal to the balance of sales less the Cost of Goods for the alcoholic beverages sold at all locations and shall be retained by CONTRACTOR. All costs of goods shall be the sole responsibility of CONTRACTOR.

6. MANAGEMENT & MANAGEMENT INCENTIVE FEES

6.1 Will be based on both the Gross & Net Income from the CONTRACTOR'S Profit and Loss Statement, as audited and approved by the COUNTY. The Management Fee will be paid monthly and the Management Incentive Fee will be calculated and paid annually within 60 days from the close of each fiscal year ending June 30, 2011, June 30, 2012 and for the period from July 1, 2012 through the end of the contract term, October 31, 2012; to be paid as an end-of-year bonus. The P&L, as audited and approved by the COUNTY, will reflect all sales (with the exception of alcohol) less taxes, discounts, etc. as defined within Attachment-B hereinafter. The P&L, as audited and approved by the COUNTY, will reflect all expenses paid in the normal course of business such as all personnel, supplies, materials and equipment needed for the operation of the resorts and shall include (but not be limited to):

6.1.1 Operational wages for site management (exempt staff),
6.1.2 Wages of all non-exempt staff,
6.1.3 Inventory for resale or consumption in sales excluding alcoholic beverage resale goods, costs of fish planting for derby or as approved,
6.1.4 Operating supplies and costs associated with maintaining all facilities as identified with Attachment-B hereafter,
6.1.5 Repair costs to assigned facilities and equipment,
6.1.6 Janitorial and landscaping supplies/personnel costs by approved subcontract or on staff personnel,
6.1.7 All state and local sales or occupancy taxes,
6.1.8 License and permit fees,
6.1.9 Credit card and banking fees, interest, and finance charges,

6.1.10 Fuel for vehicles including marina service watercraft and rental vessels,
6.1.11 Costs of lease vehicles,
6.1.12 Rental of modular facilities or equipment,
6.1.13 Direct marketing costs, advertising costs, sales support including direct mail and postage, reservation systems including software and hardware, call center staffing (on-site or approved off-site service),
6.1.14 Event and promotion expenses for authorized community events,
6.1.15 Membership in approved resort operators industry trade organizations,
6.1.16 Staff recruitment, benefit and training expenses,
6.1.17 All COUNTY paid utilities (including phone, internet, electric, gas, and approved sub-contracted services),
6.1.18 Reasonable travel and meals reimbursement for meetings or consultation on-site or for oversight by CONTRACTORS President, his delegate or top tier staff of CONTRACTOR. CONTRACTOR agrees that the reimbursement amounts will be in accordance to COUNTY's approved Travel Policy, which can be viewed at the following web-link: http://www.in.co.monterey.ca.us/auditor/policies.htm
6.1.19 Costs of all required insurances (including General Commercial Liability, Liquor Liability, Business Automobile Liability, Employers Practices, Workers Compensation, Professional Liability (if applicable), Watercraft Liability, Pollution Legal Liability, Broad Form Commercial Property Insurance),
6.1.20 Cost of direct I.T. Support Services authorized by the COUNTY

6.2 The Management Fee shall be calculated before expenses for the following pass through expenses which shall also be paid in the normal course of business:

6.2.1 Necessary capital equipment acquisitions including Point of Sale (POS) Systems, Property Management Software systems, cell tower or communications systems, any Capital Expenditures submitted for approval by COUNTY Board of Supervisors, except for those Capital Expenditures financed by "New Funds" contributed to the Resort Operations from COUNTY or other external grants or sources; and

6.2.2 Cost of specialized or required regulatory planning or engineering for compliance with regulatory bodies or acts including National Environmental Protection Act (NEPA), California Environmental Quality Act (CEQA), California State Historic Preservation Office (SHPO), American's With Disabilities Act retrofit planning (ADA), Storm Water Pollution Prevention Plans (SWPPP), Environmental Systems Management and Inspections (ISO 14000), Regional Water Quality Control Board (RWQCB), Monterey County Water Resource Board, et al, except for those expenditures financed by "New Funds" contributed from COUNTY or other external grants or sources; and

6.2.3 Other "Pass Through" items or expenses incurred by COUNTY staff such as fuel for vehicles or major repair or improvements that extends the useful life of building or equipment;

6.2.4 Any expense for Depreciation, Amortization, Interest on indebtedness by COUNTY or Debt Retirement.

6.3 The Management Fee shall be equal to 1.5% of the Monthly Gross Revenue, to be included in the CONTRACTOR'S monthly reconciliation to the COUNTY, as shown in the CONTRACTOR'S P&L Statement, audited and approved by the COUNTY, and under a budget mutually approved by both parties (beginning July 1, 2011).

6.4 The Management Incentive Fee of 25% of the Annual Net Profit shall be payable to the CONTRACTOR 60 days from the last day of each fiscal year ending June 30th and/or the last day of the term of the Agreement. The Management Incentive Fee shall be paid on CONTRACTOR'S P&L Statement, audited and approved by the COUNTY, not actual performance exclusive of budget target or Performance Evaluation Plan (to be developed by mutual Agreement of both parties). The Performance Evaluation Plan may be utilized in determining the COUNTY'S recommendation to extend or otherwise modify the future terms of the Agreement.

7. RESERVE FUND ACCOUNT

The Reserve Fund Account (RFA) is an annual business expense to be accrued at a fixed rate of 1.5 percent of the Gross Revenue. The RFA shall be a separate account, managed by the COUNTY, not to be included in the Net calculation for the Management Incentive Fee, allowing input for projects by the CONTRACTOR specifically authorized by the COUNTY in writing. Such projects are defined in Attachment-C. Title to all improvements and acquisitions that utilize the RFA shall remain with the COUNTY and any balance remaining in the RFA upon termination or expiration of this Agreement shall vest with the COUNTY.

7.1 Gross Revenue

For purposes of calculating the Gross Revenue as indicated in paragraphs 6.3 and 7.0 above, CONTRACTOR and COUNTY agree that accrual basis accounting will be used to determine current and future Gross Revenue and shall be the total amount received by the CONTRACTOR from all sales; cash or credit, for services, accommodations, materials, other merchandise, and all advance deposits for rentals/lodging made pursuant to the rights granted under this Agreement including sales earned from electronic media but not including:

7.1.1 Sales and excise taxes paid to another governmental authority that are added as a separate charge to the sales price; and
7.1.2 Charges for employees meals, lodging and transportation; and
7.1.3 Discounts taken on sales or provided on purchases; and
7.1.4 Returned sales and allowances; and
7.1.5 Interest on money loaned or held in bank accounts; and
7.1.6 Income from investments or sale of equipment owned by CONTRACTOR; and
7.1.7 Reservation fees collected by third party services or agents authorized through this Agreement.
7.1.8 Profit from the sale of alcohol as per Section 5

8. PRE-PAID LODGING DEPOSITS

COUNTY agrees to provide an escrow for all pre-paid deposits on lodging and marina berthing that is held prior to the effective date of this Agreement by the former management company, Monterey Lake Resort Management, LLC,, and those Funds held shall be transferred to CONTRACTOR herein (Urban Park Concessionaires) without reservation or set aside. COUNTY shall be responsible for any transfer fees associated with the transfer of those accounts from the former management company to CONTRACTOR.

9. DEFAULT LANGUAGE/CURE PERIOD

9.1 Any of the following occurrences or acts shall constitute an 'Event of Default" under this Agreement:

9.1.1 If CONTRACTOR at any time during the term of the Agreement, for any reason, shall fail to make any payment when such payment is due from CONTRACTOR, or fails to observe or perform any of its material covenants, agreements or obligations, and such failure continues without cure for forty-five (45) days following receipt of written notice thereof from COUNTY.

9.1.2 If CONTRACTOR becomes insolvent, whether or not it files for bankruptcy or is subject to receivership.

9.2 Upon the occurrence of an Event of Default, and as long as it continues, in addition to any other rights or remedies available to COUNTY under this Agreement or by law or equity, COUNTY shall have the right to exercise the following additional rights and remedies:

9.2.1 The right to declare the Agreement terminated, at which time CONTRACTOR shall promptly surrender the premise and all assets of the Resort Operations, shall collect from CONTRACTOR all unpaid amounts owing under the terms of the Agreement.

9.2.2 Collect from CONTRACTOR any damages for the breach of the Agreement.

9.3 CONTRACTOR shall not be deemed to be in default if it is unable to perform by virtue of governmental regulations or order, or be strike or war or other calamity such as fire, earthquake, hurricane or similar acts of God or because of similar cause beyond their control.

9.4 No waiver of any default under the Agreement shall constitute or operate as a waiver of any subsequent default hereunder.

10. ANNUAL BUDGET/STAFFING PLAN

CONTRACTOR agrees to provide COUNTY with a sample annual budget/staffing plan prior to the execution of the Final Agreement. Within 150 days of the execution of the Agreement, CONTRACTOR agrees to provide COUNTY with a three (3) to five (5) year proforma plan that shall demonstrate COUNTYS goal of Resort Operations as an Enterprise Fund with no demands on COUNTYS General Fund. The plan shall also highlight the ability of COUNTY to set aside reserve funds for debt retirement or future improvements at COUNTY'S discretion.

11. VEHICLE LEASING LANGUAGE

The parties shall enter into a separate Lease Agreement (in a form substantially similar to that attached hereto as Attachment-D) 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.

12. OPERATING ACCOUNT SURPLUS/DEFICIT

CONTRACTOR and COUNTY agree to settle the CONTRACTOR Operating Account Surplus or Deficit on a monthly basis, 30 days for the last day of each month. If a surplus, CONTRACTOR shall reimburse COUNTY. If a deficit, COUNTY shall reimburse CONTRACTOR.

Management Fee shall be calculated annually at the close of the County's fiscal year ending June 30th or a portion of any Agreement year upon certification of the P&L submitted.

13. CONTRACTORS FACILITIES AND EQUIPMENT USED IN OPERATION

13.1 COUNTY will assign facilities and equipment to CONTRACTOR for the purposes of this Agreement with rights to review and inspect those areas as desired as outlined within Attachment-A. CONTRACTOR will not be authorized to construct any Capital Improvements without the prior written approval of COUNTY. CONTRACTOR will not receive any compensable interest in assigned facilities or approved capital improvements unless approved in writing by COUNTY.

13.2 CONTRACTOR and COUNTY agree that COUNTY is liable for all costs incurred on its behalf by CONTRACTOR as further described hereinafter plus related Attachments of this Agreement.

13.3 COUNTY will provide to CONTRACTOR all of the personal property, including without limitation removable equipment, furniture and goods for operation under this Agreement as outlined within Attachment-B.

13.4 The cost of capital and personal property assets acquired will be borne by COUNTY.

13.5 CONTRACTOR shall be responsible for all expenses related to maintenance, repairs, housekeeping and grounds keeping related to Facilities and Equipment as well as real and personal property owned by COUNTY, utilized by CONTRACTOR while executing the requirements of this Agreement. Such expenses shall be a part of the Operating Expenses.

13.6 Housing provided by COUNTY to CONTRACTOR pursuant to the terms of this Agreement shall not be allocated from existing rental property, and/or any additional rental property that may be added after the date of execution of this Agreement. With the exception of the one unit provided to CONTRACTOR by COUNTY, housing expenses are not considered nor covered as part of the Operating Expenses. Residence shall be turned over to the CONTRACTOR in satisfactory condition, upon mutual agreement, both parties will determine necessary repairs prior to the take-over by CONTRACTOR, costs to be included in the operating expense reimbursed by the COUNTY. CONTRACTOR shall thereafter be responsible for any repairs and all utility charges in connection to the one COUNTY provided unit. This does not exclude the opportunity for CONTRACTOR to add additional units at their own cost with prior written COUNTY approval.

13.7 COUNTY reserves the right of use of the Resort Operations for official COUNTY business, at no cost, as long as such use does not interfere or reduce existing revenue generating activities.

13.8 COUNTY furthermore reserves the right to use any occupied space and/or facility, and CONTRACTOR agrees to perform the administrative task of notifying and removing the current occupants' with a thirty (30) day written notice. COUNTY agrees to pay CONTRACTOR the current rental rate for the space and/or facility under these circumstances.

13.9 CONTRACTOR agrees to extend to on-site COUNTY employees any and all discounts that are provided to CONTRACTOR's staff, as long as such use does not interfere or reduce existing revenue generating activities.

14. ASSIGNMENT

Neither party shall assign, sell, mortgage, hypothecate, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the other party. None of the services covered by this Agreement shall be subcontracted without the prior written consent of COUNTY. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

15. INDEMNIFICATION

15.1 CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its 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 occurring or resulting to any person, firm or corporation for damage, injury or death arising out of or connected with CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses primarily caused by the sole negligence or willful misconduct of COUNTY. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

15.2 COUNTY will, to the extent allowable by law, indemnify CONTRACTOR, its owners, officers, employees, contractors and agents against all claims, liabilities, costs, fees, expenses, damages and liabilities (including reasonable attorneys' fees and costs) associated with any third party claim relating to or arising as a result of using or being omitted from using the services to be provided by CONTRACTOR or COUNTY'S use of the properties to be managed by CONTRACTOR, except to the extent (i) CONTRACTOR is obligated to indemnify COUNTY pursuant to this Section 14.1 or (ii) the liability was primarily caused by the negligent acts or omissions or willful misconduct of CONTRACTOR's employees, contractors or agents in performing the services as finally adjudicated by a court of law.

15.3 Neither COUNTY 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.

16. INSURANCE

16.1 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.

16.2 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.

16.3 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:

16.3.1 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.

16.3.2 Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-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 $1,000,000 per occurrence.

16.3.3 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.

16.3.4 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.

16.3.5 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.

16.3.6 Pollution Legal Liability Insurance, with limits not less than $5,000,000 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.

16.4 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.

16.5 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.

Liability policies shall be endorsed (or otherwise certified) to provide the following:

1. Name as additional insured's, COUNTY its officers, agents and employees

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.

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
168 West Alisal Street 3rd Floor
Salinas, CA 93901

Attn: Contracts/Purchasing Officer

16.6 Other Insurance Requirements. All insurance required by this Agreement shall be with a company acceptable to COUNTY and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that COUNTY shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insured's with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming COUNTY of Monterey, COUNTY of Monterey Water Resources Agency, 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 that the insurance of the Additional Insured's shall not be called upon to contribute to a loss covered by CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured ***is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000).*** *The required endorsement form for Automobile Additional Insured endorsement is* ***ISO Form CA 20 48 02 99.***

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.

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.

17. LEGAL, REGULATORY COMPLIANCE

This Agreement and all operations hereunder by CONTRACTOR and COUNTY shall be subject to all applicable laws. CONTRACTOR shall comply with all applicable laws in fulfilling its obligation under this Agreement.

CONTRACTOR will give COUNTY immediate written notice of any violation of applicable laws by its employees, representatives or agents.

18. ACCOUNTING RECORDS AND REPORTS

CONTRACTOR shall provide an accounting system under which its accounts can be readily identified with its system of accounts classification. The accounting system shall be capable of providing information required by this Agreement and in final form acceptable to COUNTY.

Financial reporting requirements to COUNTY will be monthly during this Agreement or at the direction of COUNTY.

19. GENERAL

19.1 No amendment or waiver of any provisions of this Agreement, or consent to any departure by either party from any such provision, shall be effective unless the same shall be in writing and signed by the parties to this Agreement, and, in any case, such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

19.2 This Agreement and the rights of the parties hereunder may not be assigned.

19.3 Any notice or request to be given under this Agreement shall be in writing and will be deemed to have been given when delivered after being sent by overnight delivery service, certified or registered mail, postage prepaid and return receipt requested, to the recipient at the address indicated below:

To URBAN PARK:

Urban Park Concessionaires
Attn: John W. Koeberer, President
2150 Main Street, Suite 5
Red Bluff, California 96080

To COUNTY:

Monterey County Parks Department
Attn: John Pinio, Director of Parks
855 East Laurel Drive Building G
Salinas, California 93905

And:

Water Resource Agency
Attn: Curtis Weeks, General Manager
893 Blanco Circle
Salinas, CA 93901

19.4 This Agreement shall constitute the entire agreement between the parties with respect to the subject matter hereof, and shall supersede any prior oral and written commitments, agreements and understandings relating hereto.

19.5 This Agreement shall be governed by, and enforced in accordance with, the laws of the State of California. The parties stipulate that this Agreement was entered into in COUNTY of Monterey, in the State of California. The parties further stipulate that COUNTY of Monterey, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from. This Agreement shall insure to the benefit of, and be binding upon, CONTRACTOR and COUNTY or their respective successors and assigns.

19.6 If a dispute arises relating to the parties hereto which cannot be resolved by good-faith negotiations, the parties agree that in order to promote to the fullest extent reasonably possible a mutually amicable resolution of the dispute in a timely cost-effective manner, we will waive our respective rights to trial by jury and resolve our dispute by submitting the controversy to binding arbitration. It is hereby agreed that the dispute shall be referred to the presiding judge for COUNTY of Monterey, who will be responsible for the selection and appointment of the arbitrator to be utilized. The arbitrator's decision shall be final and binding and judgment may be entered thereon. In the event a party fails to proceed with arbitration, unsuccessfully challenges the arbitrator's award, or fails to comply with arbitrator's award, the other party is entitled to costs of suit including a reasonable attorney's fee for having to compel arbitration or defend or enforce the award.

19.7 The waiver by any party of any breach of this Agreement shall not operate as or be construed to be a waiver by such part of any subsequent breach.

20. CONTRACT AUDITS

~~CONTRACTOR agrees that COUNTY or its designee will have the right to review, obtain and~~ copy all records pertaining to performance of the Agreement. CONTRACTOR agrees to provide COUNTY or its designee with any relevant information requested, and shall permit COUNTY or its designee 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 this Agreement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under the Agreement. CONTRACTOR offers to COUNTY to provide an independent audit of CONTRACTOR's expenses at any time requested by COUNTY in writing.

21. NON-DISCRIMINATION

During the performance of this contract, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment or patron of the Resort Operations because of race, religious creed, color, national origin, ancestry, physical disability, mental

disability, medical condition, marital status, age (over 40), sex, or sexual orientation. CONTRACTOR(s) shall ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code, §12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et seq.).

The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12990, et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all agreements with subcontractors to perform work under the Agreement.

22. INDEPENDENT CONTRACTOR

CONTRACTOR shall be an independent contractor and shall not be an employee of COUNTY, nor immediate family of an employee of COUNTY. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc,) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits from COUNTY. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.

23. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR, its responsible officers, and its employees having major responsibilities for the performance of work under the Agreement, presently have no interest and during the term of the Agreement will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of CONTRACTOR's services under the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by the duly authorized officers or agents as set forth below.

22. INDEPENDENT CONTRACTOR

CONTRACTOR shall be an independent contractor and shall not be an employee of COUNTY, nor immediate family of an employee of COUNTY. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc,) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits from COUNTY. CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.

23. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR, its responsible officers, and its employees having major responsibilities for the performance of work under the Agreement, presently have no interest and during the term of the Agreement will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of CONTRACTOR's services under the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by the duly authorized officers or agents as set forth below.

URBAN PARK CONCESSIONAIRES, A CALIFORNIA CORPORATION

By: _____ Date: 5/11/11

Name:

Title: PRESIDENT

COUNTY OF MONTEREY

By: _____ Date: May 3, 2011

Name:

Title: Chair, Board of Supervisors

COUNTY OF MONTEREY WATER RESOURCES AGENCY

By: _____ Date: May 3, 2011

Name:

Title: Chair, Board of Supervisors of the Monterey County Water Resources Agency

Approved as to Form
County Counsel

By: _____
Deputy County Counsel

ATTACHMENT - A

CONTRACTOR FACILITIES

A.1 COUNTY shall provide CONTRACTOR the use of both the real and personal property (buildings, facilities, structures, equipment and inventory) as described below for providing, operating and maintaining visitor services during the term of the Agreement:

A.1.1 Lake San Antonio Operation:

South Shore Facility

- Marina and Dock Area
- Rental Boats (subject to the separate "Vehicle/Vessel Lease Agreement")
- Restaurant, General Store and Administration Area
- Laundry Facility and Storage Area
- Gas Station and Fuel Storage Tanks
- Rental Mobile Homes (17)
- Ice House
- Dry Storage Area
- Houseboat Program

North Shore Facility

- General Store
- Rental Mobile Homes (4)

A.1.2 Lake Nacimiento Operation

- Administration Building, Shared Occupancy with COUNTY Parks and Water Resources Agency
- Rental Condos (19)
- Marina and Dock Area, including Fueling Operations
- General Store and Restaurant
- Community Laundry Facility
- Swimming Pool
- Portable RV Trailers (8)
- Mobile Home Units (3)
- Dry Storage Area

ATTACHMENT - B

FACILITIES & EQUIPMENT

B.1 Lake San Antonio

B.1.1 SOUTH SHORE FACILITIES:

B.1.1.1 Marina

The Marina is an integrated structure of floating decks stabilized with underwater cables and anchors. The cables feed through deck winches to maneuver the structure along the water surface to accommodate varying lake levels. The main aisle is connected to the shoreline by a short gangplank and railing and branches into two (2) docking aisles. The docking aisles contain mooring spaces (slips) with boarding walkways that accommodate a total of one hundred (100) medium sized boats. Eight (8) of the slips contain boatlifts. The remaining marina area includes a marina store, storage shed, fueling pad, jet-ski launch pad and cable maintenance platform.

The Marina is mainly constructed from prefabricated wood glulam beams bolted face down together over cross beams and pontoons. The floor of the marina store is constructed with glulam beams, cross beams and pontoons. The marina store is enclosed with corrugated sheet metal, with the walls and roof supported by a light steel frame. The walls and roof are internally faced with fiberglass batten insulation with vapor barrier. The storage shed contains similar floor with framed walls and sheet metal roof. The jet-ski launch pad is an extension of the main entry aisle supporting a medium duty steel frame with one (1) ton motorized hoist system.

B.1.1.2 Laundry and Storage Building

The Laundry and Storage Buildings are land based and situated just north of the general store. The building is a rectangular concrete and block building and founded on a concrete slab with outside dimensions of approximately forty (40) feet x thirty-one (31) feet x twelve (12) feet high, enclosing 1,240 square feet. The exterior walls are a combination of storefront windows, concrete block, and painted wood siding. The roof is wood frame with shingles.

The Laundry are contains nine (9) washers and six (6) dryers, which are all coin-operated units. The storage areas contain spare parts and supplies.

B.1.1.3 Ice House

The Ice House is located adjacent to the Laundry and Storage Building. The building is rectangular wood framed insulated and metal lined building and founded on a concrete slab with outside dimensions of approximately forty (40) feet x seventeen (17) feet x eight (8) feet high enclosing 680 square feet. In addition the refrigeration unit is housed in a five (5) feet x forty (40) feet lean-to along the rear of the building. The unit is lined with insulated panels and metal lining.

B.1.1.4 Gas Station and Fuel Storage Tanks

The Gas Station is located within the parking footprint of the Laundry and Storage Building and includes two (2) dispensers and two (2) 12,000 gallon double walled horizontal storage tanks mounted on concrete slabs. The gasoline tanks contain spill boxes and vapor recovery systems. One (1) of the gas tanks is located adjacent to the Laundry and Storage Building, while the other tank is located adjacent to the Marina.

B.1.1.5 Café, General Store, and Administrative Building

The Café, General Store and Administrative Building are a 7,500 square foot wood sided structure. The Café has the capacity to provide breakfast, lunch and dinner. The building also houses a small video game room, which includes a pool table. The General Store is stocked with the basic grocery items, camping and fishing supplies needed by guests.

B.1.1.6 Rental Mobile Homes

The Mobile home units are founded on jacks with a skirting system enclosing the foundation from sight. The mobile home units are also used as weekend condo rentals during peak periods. The mobile homes on the south shore reside within an upslope area just west of the Marina. Seventeen (17) units of varying age and condition provide a total of 13,324 square feet of living space.

B.1.1.7 Emergency Generator

The facility has a backup diesel powered generator with the capacity of 150 KW to provide power to the operation of the Marina.

B.1.1.8 Rental Boats

The facility has several power cruising boats, fishing boats and jet skis. The boats range in age from two (2) to eighteen (18) years. There is a mix of nine (9) Reinell, Centurion, Sweetwater and Voyager powerboats and eighteen (18) Klamath fishing boats. These vessels are subject to the separate "Vehicle/Vessel Leases Agreement".

B.1.1.9 Other Assets

Other Assets include cost allowances for inventories of over-the-counter goods in the Marina Store and boating supplies stored in the Marina shed.

B.1.2 NORTH SHORE FACILITIES

B.1.2.1 Campground General Store

The Campground General Store is constructed of prefabricated modules encompassing a footprint measuring seventy-one (71) feet x sixty-six (66) feet or about 4,686 square feet.

B.1.2.2 Other Assets

Other Assets include cost allowances for inventories of over-the-counter goods in the Campground General Store.

B.2 Lake Nacimiento

B.2.1 Administration Building (Shared Facility with County)

The Administration building, completed in 2004, is a shared facility, which is used to house both County and Contractors administrative staff. The structure contains two stories and is constructed with conventional wood framing on a concrete foundation with a high-end composition shingle roof and stucco exterior.

The upper story of the structure contains approximately 1,848 square feet and serves as the main entry and reception area. The interior walls are a combination of floor to ceiling beam and glass windows and painted drywall. The floor area is tiled and the reception area is fitted with granite countertops. Other amenities include a full height stone fireplace and men and women's restrooms.

The bottom story contains approximately 2,400 square feet with permanent offices and conference rooms along with men and women's restrooms. The walls are finished with paint and drywall. The floors are mainly carpeted with tiling in the restrooms.

The floor areas in both stories are fully furnished. Office spaces are furnished with chairs, desks, cabinets, tables, telephones and the conference room is furnished with tables and chairs. Ample storage area is available for supplies and records.

Other building features include fire sprinklers and a central HVAC system. An interior stairway serves as the primary access between the top and bottom stores. Access around the outside of the building is by walkways and stairs. No elevators are installed.

B.2.2 Rental Condos

There are currently a total of nineteen (19) rental condos which were built in the late 1980's on a ridge above and to the south of the main parking lot with views of the lake. The units were built as multi unit duplexes and triplexes. Each unit of the duplex and end units of the triplexes is two stories. The middle unit of each triplex is one story. The occupancy of two story units and one story units are ten (10) persons and found (4) persons respectively. The total footprint area of all condo units is estimated at 15,324 square feet. The total deck area contained within all the condo units is estimated at 3,520 square feet.

The units are constructed with conventional wood framing and founded on either concrete perimeter walls or footers or drilled concrete piers spanned with wood glulam beams. The exterior walls are faced with oiled shake shingles and the roofs are covered with asphalt shingles. The units contain exterior wood framed decks and railings. Each unit contains a kitchen, separate bedroom, full bath, and a living room on the first floor. The two story units have stairs to lofted sleeping quarters on the second floor. The floors in the kitchen, eating space, entry and bath areas are covered and finished with linoleum. The remaining floor areas are carpeted. Countertops in all units are covered with a Formica material. Kitchen appliances are apartment-sized units. Each unit is furnished with fire sprinklers, an HVAC system and an electric hot water heater unit. Power is supplied to all units from a central pad mounted transformer.

B.2.3 Marina Operations

A new state of the art Marina is an integrated structure of floating decks stabilized with underwater cables and anchors. The cables feed through deck winches to maneuver the structure along the water surface to accommodate varying lake levels. The central aisle is connected to the shoreline by a gangplank and railing and branches into six (6) docking aisles. Four (4) of the docking aisles contain individual boat stalls (slips) with boarding walkways that harbor a total of one-hundred forty six (146) medium size boats. Eight (8) of the slips contain boatlifts. The two (2) docking aisles nearest the gangplank do not contain slips but have designated spaces for mooring boats not assigned a slip. The remaining marina area includes a marina store, storage shed, fueling pad, jet-ski launch pad, a cable maintenance platform and restroom.

B.2.4 General Store and Restaurant

The General Store and Restaurant are land based and situated above high lake level just east of the Marina. The facility is centrally located between the main public parking area, boat launch ramps and Pine Knoll Campground. Permanently partitioned spaces for retail sales, information office, public restrooms and kitchen

are provided within the footprint of the original steel building. The building is rectangular in shape and founded on a concrete slab with outside dimensions of approximately one-hundred ten feet (110) x sixty-three feet (63) x twelve (12) feet high enclosing 6,930 square feet. The exterior walls are a combination of storefront windows, stone wainscot, and painted wood siding. The roof is sheathed with corrugated sheet metal decking.

The retail area contains several freestanding beverage coolers and drink dispensers along with displays of resort clothing, snacks and sundries on freestanding shelves. Store sales are processed through two (2) checkout stands.

A visitor's information office is located along the northeast corner of the General Store with its own entry adjacent to the main store entrance.

The public restrooms contain separate men and women's facilities

The Restaurant area of the facility contains a kitchen that is capable of serving 400 to 500 meals a day and contains a cooking stove, griddle, deep-fryer, warming ovens, dishwasher unit, walk-in refrigerator and freezer unit. The griddle and deep-fryer units are hooded and ventilated by a single duct fan. The food preparation and dishwashing counters are fabricated stainless steel sheet metal. The kitchen is fitted with a under the hood fire suppression system. The restaurant is fitted with a roof mounted A/C unit that is capable of cooling both the kitchen and seating area.

The restaurant dining area is a lean-to structure added on to the west side of the kitchen with dimensions of approximately fifty-on (51) feel x seventeen (17) feet containing 867 square feet including space for a beer/wine bar. A partially shaded outdoor wood deck runs along the west end of the restaurant to increase occupancy with a dimension of approximately thirty-two (32) feet x twenty (20) feel containing 640 square feet. The combined occupancy of the restaurant and deck is 125 people. The restaurant is fully outfitted with tables and chairs to accommodate the anticipated occupancy of 125 people.

Commercial power is provided to the General Store and Restaurant through a 440 volt, 3-phase central distribution panel adjacent to the kitchen area. A fixed 150 KW diesel generator and transformer switch provide backup power to run all of the refrigeration equipment, fans, ventilators, lights and other circuitry connected to the panel.

B.2.5 Swimming Pool

The swimming pool is concrete with tiled water lie and measures fifty (50) feet x twenty (20) feet with a depth ranging from 1 ½ feet to 9 feet deep. A concrete deck surrounds the pool. The pool is equipped with a circulating and pump system.

B.2.6 Portable RV Trailers

There are eight (8) portable RV Trailers fully contained units with beds, toilet/shower unit, and lounge and kitchen amenities. The footprint size of each unit is twenty-nine (29) feet x eight (8) feet enclosing 232 square feet.

B.2.7 Community Laundry

This facility is currently being housed in a doublewide mobile home unit. The unit contains five (5) washers and five (5) dryers all coin operated. The unit is estimated at fifty (50) years old, and is in marginal condition.

B.2.8 **Maintenance Yard** (Shared facility with COUNTY)

The Maintenance Yard is an enclosed fenced area of approximately 10,000 square feet containing fuel and oil storage tanks, operations and maintenance vehicles, and storage sheds. The fuel and oil storage tanks are mounted on steel stands situated within a rectangular concrete secondary containment pit. Gasoline is stored in a 1,000 gallon storage tank, and Diesel fuel is stored in a 250 gallon storage tank. Hydraulic fluid, engine oil, and shake oil are stored in separate fifty-five (55) gallon storage units.

B.2.9 **Boat Storage Yard**

The Boat Storage yard encloses approximately 20,000 square feet, paved with asphalt, and enclosed with a chain link security fence.

B.2.10 **Vehicles**

The operations has adequate operations and maintenance vehicles including but not limited to a garbage truck, water truck, several pickup trucks, SUV's and regular autos. These vehicles are subject to the separate "Vehicle/Vessel Lease Agreement".

B.2.11 **Rental Boats**

The Rental Boat operations, has several pontoon boats, power boats, and fishing boats. These vehicles are subject to the separate "Vehicle/Vessel Lease Agreement".

B.2.12 **Other Assets**

Other Assets include cost allowances for inventories of over-the-counter goods in the Marina and General Store, Restaurant pots, pans, dishes, silverware and boating supplies stored in the Marina shed.

ATTACHMENT - C

RESERVE FUND ACCOUNT (RFA) - AUTHORIZED PROJECTS

Replacement and Improvement categories are established as follows, but not limited to:

C.1 Painting, rehabilitation and/or remodeling of buildings and facilities (exterior and interior) including all decks and landscaping; and

C.2 Repair, replacement or expansion of docks and docking systems, fueling systems; and

C.3 Repair, replacement and/or additions to the equipment within the facilities, fixed asset repair or replacement of items such as computers, printer/scanners, POS Systems (cash registers), freezers, ice machines, generators, major electrical work, etc; and

C.4 Repair, maintenance and/or additions to the Parks Models inventory, rental boat fleet, utility boats, patrol boats, and related power drives and equipment (including the disposal of damaged equipment/rentals); and

C.5 Repair or rehabilitation of asphalt or concrete surfaces, including slurry coating, stripping and curb painting; and

C.6 Such other categories or items as the parties may mutually agree upon through a written addendum to the Agreement.

C.7 Stipulations:

C.7.1 All fixed assets will be placed on the COUNTY'S inventory and shall remain the property of COUNTY; and

C.7.2 CONTRACTOR shall notify COUNTY upon receipt of items acquired and shall forward a copy of the appropriate bill of sale and warranties to the COUNTY for proper registration with the COUNTY'S Fleet Management Division; and

C.7.3 Expendable items such as life jackets or single use safety devices such as fire extinguishers or flare kits shall not generally qualify for the RFA, unless acquired as part of a package offer/deal for purchase of additional equipment.

C.7.4 The RFA fund may apply to single items where the cost of which is in excess of $500.00 dollars or which materially prolongs the service life of an asset. (Not applicable to lease equipment); and

C.7.5 All projects must be pre-approved in advance by the COUNTY in writing. Proposed projects must be fully funded by the RFA before being submitted for approval; and

C.7.6 All project sub-contractors shall be licensed, bonded and insured for duties undertaken prior to performance of any work. The CONTRACTOR shall defend COUNTY against and mechanics lien relative to subcontracted work in relations to this Agreement.

ATTACHMENT - D

VEHICLE/VESSEL LEASE AGREEMENT

RECITALS

This Lease is entered into as of this 11th day of May 2011 by and between COUNTY of Monterey (hereinafter referred to as "COUNTY"), whose principal address is 168 West Alisal Street 3rd Floor Salinas, California 93901, and URBAN PARK CONCESSIONAIRES (DBA: Monterey Lakes Recreation Company), a California Corporation, (hereinafter referred to as the "CONTRACTOR") whose principal address is 2150 Main Street, Suite 5, Red Bluff, California 96080.

ARTICLE 1: DESCRIPTION IN SCHEDULE

1.1 The property to be leased is described in the attached Schedule A ("Property")

ARTICLE 2: TERM OF LEASE

2.1 The Initial Term of this Lease is eighteen (18) months so long as the Management Agreement between the Parties is in effect.

2.2 The Initial Term shall automatically extend for the same extension period as the Management Agreement between the parties, as extended pursuant to Section 2 of the Management Agreement.

ARTICLE 3: PAYMENTS BY CONTRACTOR

3.1 The amount of monthly rental payments is $1.00 per vehicle, per year. CONTRACTOR shall make rental payments at County's address as set forth above or at any place that may be designated by COUNTY. All rental payments shall be due and payable in advance on the first day of April thereafter during the term of this Lease.

ARTICLE 4: OWNERSHIP

4.1 This Lease constitutes a lease or bailment of the Property described and not a sale or the creation of a security interest. CONTRACTOR shall not have, or at any time acquire any right, title, or interest in the property except the right to possession and use as provided for in this Lease. COUNTY shall at all times be the sole owner of the property. However, CONTRACTOR shall be allowed, but not required, to transfer title to all Property, at CONTRACTOR's expense to CONTRACTOR for insurance purposes. At termination of this Lease, CONTRACTOR shall transfer title, as appropriate, to all Property back to COUNTY, at CONTRACTOR's expense.

4.2 CONTRACTOR authorizes COUNTY to file and record a UCC-1 financing statement to establish the respective rights between the parties regarding the Property. In addition, CONTRACTOR agrees to show COUNTY as a lien holder on all titles for the vehicles/vessels that are part of the Property with the California Department of Motor Vehicles.

ARTICLE 5: OPERATING EXPENSES

5.1 CONTRACTOR shall be responsible for all expenses in connection with the operation of the Property.

ARTICLE 6: MAINTENANCE AND REPAIRS

6.1 **CONTRACTOR Responsibility:**

CONTRACTOR shall assume all obligations and liability with respect to the possession of the Property, and for its use, operation, condition, and storage during the lease term. CONTRACTOR shall, at CONTRACTOR's own expense, maintain the Property in good mechanical condition and running order, allowing for reasonable wear and tear. The rent on any item shall not be prorated or abated while the Property is being serviced or repaired. COUNTY shall not be under any liability or obligation in any manner to provide service, maintenance, repairs, or parts for the Property.

6.2 **Accessions:**

All installations, replacements, and substitutions of parts or accessories with respect to any of the Property shall constitute accessions and shall become part of the Property and shall be owned by COUNTY. CONTRACTOR shall obtain written permission of COUNTY before any changes are made to the Property or before any additional parts or accessories are installed on any of the Property.

ARTICLE 7: USE OF PROPERTY

7.1 **Rights of CONTRACTOR:**

CONTRACTOR shall be entitled to the absolute right to use, operation, possession, and control of the Property during the term of this Lease, provided CONTRACTOR is not in default of any provision of this Lease or subject to any security interest COUNTY may have given or may give to any third party during the term of this Lease.

CONTRACTOR shall employ and have absolute control, supervision and responsibility over any operators or users of the Property. However, all Property shall only be used, maintained and kept (except for removal for short periods of repairs) at the Resort Operations in order for CONTRACTOR to provide the services pursuant to the terms of the Management Agreement. Use of the Property for any other purpose is a material breach of this Lease.

7.2 **Duties of CONTRACTOR:**

CONTRACTOR shall use the Property in a careful and proper manner and shall not permit any Property to be operated or used in violation of any applicable federal, state, or local statue, law, ordinance, rule, or regulation relating to the possession, use, or maintenance of the Property. CONTRACTOR agrees to reimburse COUNTY in full for all damage to COUNTY, its employees, and its agents. CONTRACTOR shall indemnify and hold COUNTY harmless from any and all liabilities, fines, forfeitures, or penalties for violations of any statue, law, ordinance, rule, or regulation of any duly constituted public authority.

7.3 **Commercial Use Limitations:**

CONTRACTOR represents and warrants that the Property will be used for commercial or business purposes only as contemplated under the Management Agreement.

7.4 **Damage or Loss of Property:**

CONTRACTOR shall be responsible for the risk of loss, damage or destruction of the Property during the Lease term and until the Property has been returned to COUNTY. If the Property is damaged or destroyed in an accident or other occurrence or confiscated by any governmental authority, or is stolen, abandoned, or subject to undue peril, CONTRACTOR will immediately notify COUNTY in writing of the occurrence or condition.

ARTICLE 8: COUNTY'S RIGHT OF INSPECTION AND REPAIR

8.1 **Inspection and Repair:**

COUNTY, at its discretion during CONTRACTOR's regular business hours shall have the right to inspect the Property. If any Property covered by this Lease is not being properly maintained in the sole opinion of COUNTY, COUNTY shall have the right, but not the obligation, to have it repaired or maintained at a service facility at the expense of CONTRACTOR. All property will be inspected, mutually agreed upon status of repairs, and documented in writing prior to the commencement of the contract.

ARTICLE 9: ASSIGNMENT OF COUNTY'S WARRANTIES

9.1 **Warranty Assignment:**

COUNTY shall assign to CONTRACTOR all manufacturer, dealer, or supplier warranties applicable to the Property to enable CONTRACTOR to obtain any warranty service available for the Property. COUNTY appoints CONTRACTOR as COUNTY's attorney-in-fact for the purpose of enforcing any warranty. Any enforcement by CONTRACTOR shall be at the expense of CONTRACTOR and shall in no way render COUNTY responsible to CONTRACTOR for the performance of any warranties.

ARTICLE 10: TAXES AND OTHER CHARGES

10.1 **Taxes:**

CONTRACTOR shall be liable for and pay on or before their due dates, all sales taxes, use taxes, personal property taxes, business personal property taxes, vehicle taxes and assessments, or other direct taxes or governmental charges imposed on the Property. CONTRACTOR shall promptly notify COUNTY and send COUNTY copies of any notices, reports, and inquiries from taxing authorities concerning delinquent taxes, fees, or other charges received, or assessments received by CONTRACTOR.

10.2 **Other Charges:**

CONTRACTOR shall be liable for any fees for licenses, registrations, permits, and other certificates as may be required for the lawful operation of the Property. All certificates of title shall initially be applied for in the State of California and shall be issued and maintained in the name of CONTRACTOR, as lessee. CONTRACTOR is responsible for the payment in a timely manner of all fines (such as parking tickets) related to the Property during the term of the Lease.

10.3 **Taxes Paid by County:**

If any taxing authority requires that a tax as set forth in Paragraph 10.1, above, be paid to the taxing authority directly by COUNTY, CONTRACTOR shall, on notice from COUNTY pay to COUNTY the amount of the tax, together with the next rent installment.

ARTICLE 11: CONTRACTOR'S INSPECTION

11.1 **Inspection by CONTRACTOR:**

CONTRACTOR agrees that it shall be conclusively presumed, as between COUNTY and CONTRACTOR, that CONTRACTOR has fully inspected the Property and acknowledges that the Property is in good condition and repair, and that CONTRACTOR is satisfied with and has accepted the Property in such good condition and repair, as per mutual agreement and documented inspection methodology.

ARTICLE 12: INSURANCE

12.1 **CONTRACTOR Duty to Insure:**

CONTRACTOR shall procure, and thereafter maintain, sufficient property and liability insurance coverage to protect COUNTY and CONTRACTOR from public liability and property damage resulting from the Property in amounts no less than one (1) million for each occurrence and three (3) million in the aggregate. CONTRACTOR shall not commit or permit the commission of any acts on the neither Property nor use or permit the use of the Property in any manner that will increase the existing rates for or cause the cancellation of any fire, liability, or other insurance policy insuring the Property or improvements thereon. CONTRACTOR will obtain comprehensive and collision coverage, including fire and theft insurance in an amount equal to the fair market value. CONTRACTOR agrees to cause the insurance company to name COUNTY as "Loss Payee" on the comprehensive and collision coverage's and to provide COUNTY as an "Additional Insured" for all liability coverage. The insurance policy must provide COUNTY with thirty (30) days notice of any cancellation, reduction, or other material change in coverage. CONTRACTOR appoints COUNTY as its attorney-in-fact to arrange for and procure payment of insurance proceeds directly with each insurance company and to provide an insurance policy hereunder and to endorse, present, and collect insurance proceeds checks, the appointment being irrevocable and coupled with an interest.

12.2 **Excess Liability Indemnity:**

CONTRACTOR shall indemnify and hold COUNTY, its agents, and employees, harmless from against all loss, liability, and expense, including reasonable attorney's fees, in excess of the provided limits of liability insurance for bodily injury (including death) or property damage caused by or arising out of the leasehold interest, maintenance, use or operation of the Property. CONTRACTOR shall further indemnify and hold harmless COUNTY, its agents, and employees, from and against loss, liability, and expense, including reasonable attorneys' fees, because of CONTRACTOR's failure to comply with any terms, provisions, and conditions of any insurance policy insuring COUNTY and CONTRACTOR, or because of CONTRACTOR's failure to comply with the terms and provisions of this article.

ARTICLE 13: INDEMNIFICATION AND LIABILITY

13.1 **All Liability Assumed by CONTRACTOR:**

CONTRACTOR assumes all risk and liability for the loss of or damage to the Property, for the death of or injury to any person or property of another, and for all other risks and liabilities arising from the use, operation, condition, possession, or storage of the

Property. Nothing in this Lease shall authorize CONTRACTOR or any other person to operate any of the Property so as to impose any liability or other obligation on COUNTY.

13.2 **CONTRACTOR Duty to Indemnify:**

CONTRACTOR shall indemnify, defend, and hold harmless COUNTY, its agents, and employees from all claims, loss, or damage COUNTY may sustain or suffer for any of the following reasons:

a) The loss of or damage to any of the Property for any cause; or
b) The injury to or death of any person including but not limited to agents or employees of CONTRACTOR; or
c) Damage to any property arising from the use, possession, selection, delivery, return, condition, or operation of any Property.

CONTRACTOR shall reimburse COUNTY for all expenses, losses, liabilities, fines, penalties, and claims of every type, including reasonable attorneys' fees, imposed on or incurred by COUNTY because of CONTRACTOR's use or operation of any Property, or because of the failure by CONTRACTOR to perform any of the Lease terms.

13.3 **Obligations Survive Lease Term:**

The indemnities and assumptions of risk, liabilities, and obligations by CONTRACTOR arising under the Lease during the Lease's term shall continue in effect after the termination of Lease, regardless of the reason for termination.

ARTICLE 14: ACCIDENT, LOSS OF PROPERTY, OR DAMAGE TO PROPERTY

14.1 **Notification to COUNTY:**

If any Property covered by this Lease is damaged, lost, stolen, or destroyed, or if any person is injured or dies, or if any property is damaged as a result of its operation, use, maintenance, or possession, CONTRACTOR shall promptly notify COUNTY of the occurrence, and shall file all necessary accident reports, including those required by law and those required by insurers of the Property.

14.2 **Cooperation in Defense of Claims:**

CONTRACTOR, its employees, and agents shall cooperate fully with COUNTY and all insurers providing the insurance under this Lease in the investigation and defense of any and all claims or suits. CONTRACTOR shall promptly deliver to COUNTY any and all papers, notices, and documents served on or delivered to CONTRACTOR, its employees, or its agents in connection with any claim, suit, action, or proceeding at law or in equity commenced or threatened against CONTRACTOR, COUNTY, or both concerning the Property.

14.3 **Fair Market Value:**

If any Property becomes lost, stolen, destroyed, or damaged beyond repair, CONTRACTOR shall pay COUNTY in check the fair market value, less any net proceeds of insurance for the property received by COUNTY. Upon payment, this Lease shall terminate with respect to that item of Property and CONTRACTOR shall become entitled to the Property on an "as-is-where-is" basis, without warranty, express or implied, for any matter whatsoever.

ARTICLE 15: ASSIGNMENT

15.1 **Assignment or Subletting by CONTRACTOR:**

CONTRACTOR shall not assign this Lease or any properties described in it, or assign any interest in the Lease or Property, or sublet any of the Property without the express written consent of COUNTY.

ARTICLE 16: ACTIONS CONSTITUTING DEFAULT

16.1 **CONTRACTOR in Default:**

COUNTY, at its option, may by written notice to CONTRACTOR declare CONTRACTOR in default on the occurrence of any of the following:

a) Failure by CONTRACTOR to make payments or perform any of its obligations under this Lease; or
b) Institution by or against CONTRACTOR of any proceeding in bankruptcy or insolvency, or the reorganization of CONTRACTOR under any law, or the appointment of a receiver or trustee for the goods and chattels of CONTRACTOR, or any assignment by CONTRACTOR for the benefit of creditors; or
c) Expiration or cancellation of any insurance policy to be paid for by CONTRACTOR as provided for under the terms of this Lease; or
d) Involuntary transfer of CONTRACTOR's interest in this Lease by operation of law; or
e) Termination of the Management Agreement for any reason.

ARTICLE 17: RIGHTS, REMEDIES, AND OBLIGATIONS ON DEFAULT

17.1 **COUNTY Rights and Remedies:**

After the default of CONTRACTOR, and on notice from COUNTY that CONTRACTOR is in default, COUNTY shall have the following options:

a) To terminate the Lease and CONTRACTOR's rights under the Lease; or
b) To declare the balance of all unpaid rent and all other charges of any kind required of CONTRACTOR under the Lease to be due and payable immediately, in which event COUNTY shall be entitled to the balance due together with interest at the rate of 1.5% per month from the date of notification of default to the date of payment; or
c) To repossess the Property without legal process free of all rights of CONTRACTOR in and to the Property. CONTRACTOR authorizes COUNTY or COUNTY's agent to enter on any premises where the Property is located and repossess and remove it. CONTRACTOR specifically waives any right of action CONTRACTOR might otherwise have arising out of the entry and repossession, and releases COUNTY of any claim for trespass or damage caused by reason of the entry, repossession, or removal.

17.2 **CONTRACTOR Obligation for COUNTY's Costs:**

After default, CONTRACTOR shall reimburse COUNTY for all reasonable expenses of repossession and enforcement of COUNTY's rights and remedies, together with interest at the rate of 1.5% percent per month from the date of payment.

17.3 **Remedies Cumulative:**

The remedies of COUNTY shall be cumulative to the extent permitted by law, and may be exercised partially, concurrently, or separately. The exercise of one remedy shall not be deemed to preclude the exercise of any other remedy.

17.4 **Effect of Forbearance:**

No failure on the part of COUNTY to exercise any remedy or right and no delay in the exercise of ay remedy or right shall operate as a waiver. No single or partial exercise by COUNTY of any remedy or right shall preclude any other or further exercise of that remedy or right or the exercise of any other rights or remedies. No forbearance by COUNTY to exercise any rights or privileges under this Lease shall be construed as a waiver, but all rights and privileges shall continue in effect as if no forbearance had occurred. Acceptance by COUNTY of rent or other payments made by CONTRACTOR after default shall not be deemed a waiver of COUNTY's rights and remedies arising from CONTRACTOR's default.

17.5 **Forfeiture of CONTRACTOR Interest on Default:**

Upon default, for any reason, CONTRACTOR and CONTRACTOR's successor in interest shall have no right, title or interest in the Property, its possession, or its use. COUNTY shall retain all rents and other payments of any kind made by CONTRACTOR under the Lease.

ARTICLE 18: RETURN OF PROPERTY ON EXPIRATION

18.1 **CONTRACTOR Return of Property:**

Upon the expiration date of this Lease with respect to any or all of the Property, CONTRACTOR shall return the property to COUNTY, together with all accessories, free from all damage and in the same condition and appearance as when received by CONTRACTOR, allowing for ordinary wear and tear. If CONTRACTOR fails or refuses to return the equipment to COUNTY, COUNTY shall the right to take possession of the Property and for that purpose to enter any premises where the Property is located without being liable in any suit, action, defense, or other proceedings to CONTRACTOR.

ARTICLE 19: LIENS

19.1 **Encumbrances or Liens Notice:**

CONTRACTOR shall not pledge, encumber, create a security interest in, or permit any lien to become effective on any Property. If any of these events take place, CONTRACTOR shall be deemed to be in default at the option of COUNTY. CONTRACTOR shall promptly notify COUNTY of any liens, charges, or other encumbrances of which CONTRACTOR has knowledge. CONTRACTOR shall promptly pay or satisfy any obligation from which any lien or encumbrance arises, and shall otherwise keep the property and all right, title, and interest free and clear of all liens, charges, and encumbrances. CONTRACTOR shall deliver to COUNTY appropriate satisfactions, waivers, or evidence of payment.

ARTICLE 20: NOTICES

20.1 **Service of Notice:**

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to either Party by the other Party shall be in writing and shall be deemed duly served and given when personally delivered to the Party to whom they are directed, or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid, to the addresses identified in the Lease. Either Party may change its address for the purpose of this Paragraph by giving written notice of the change to the other Party in the manner provided in this Paragraph.

ARTICLE 21: AMENDMENT OR MODIFICATION

21.1 **Method of Amendment or Modification**

Additional property may from time to time be added as the subject matter of this Lease as agreed on by both Parties. Any additional property shall be added to the attached Schedule A in an amendment describing the Property, the rental, the term of the leasing period, security deposit, and stipulated loss value of additional property. All amendments to any attached Schedule(s) must be in writing and signed by both Parties. Other than by this amendment procedure, this Lease shall not be amended, modified, or altered in any manner except in writing signed by both Parties.

ARTICLE 22: ENTIRE AGREEMENT

22.1 **Incorporation by Reference:**

This Lease and any attached Schedule(s), which is incorporated by reference and made an integral part of the Lease, constitute the entire Agreement between the Parties. No agreements, representations, or warranties other than those specifically set forth in this Lease or in the annexed Schedule(s) shall be binding on any of the Parties unless set forth in writing and signed by both Parties.

ARTICLE 23: GOVERNING LAW

~~23.1 Venue/Choice of Law:~~

This Lease shall be deemed to be executed and delivered in Monterey County, California and governed by and construed in accordance with the laws of California.

ARTICLE 24: EFFECT ON SUCCESSORS

24.1 **Successors:**

This Lease and each of its provisions shall be binding on and shall inure to the benefit of the respective successors and assigns of the Parties to this Lease. Nothing contained in this Paragraph shall be construed as consent by COUNTY to any assignment of this Lease or any interest therein by CONTRACTOR except as provided in Paragraph 15.1 of this Lease.

ARTICLE 25: TIME OF ESSENCE

25.1 **Time:**

Time is of the essence in this Lease and in each provision contained within, and each provision is made and declared to be a material, necessary, and essential part of this Lease.

ARTICLE 26: SEVERABILITY CLAUSE

26.1 **Agreement Survives Partial Invalidity:**

If any provisions of this Lease or the application of any of its provisions to any party or circumstance is held invalid or unenforceable, the remainder of this Lease and the application of the provisions to the other parties or circumstances shall remain valid and in full force and effect.

Dated: _____

URBAN PARK CONCESSIONAIRES

_____
Signature

_____
Printed Name

_____
Title:

Dated: _____

COUNTY OF MONTEREY

_____
Signature

_____
Printed Name

_____
Title:

SCHEDULE - A

Description of Property

Parks Department to complete this information prior to execution of Lease Agreement

Vehicles:

Year: Make: Model: Mileage:

Boats:

Year: Make: Model: Hour Meter:

ADDENDUM No. 1 to the Management Agreement between Urban Parks Concessionaires and the County of Monterey

The Parties to the Management Agreement dated October 23, 2012 between Urban Parks Concessionaires, DBA Monterey Lakes Recreation Company ("Contractor"), and the County of Monterey ('County') agree to the following Addendum No. 1 to that Management Agreement:

1. The term of the Management Agreement shall be extended through October 31, 2013.

2. Except as provided herein, all remaining terms, conditions, provisions, entitlements and obligations of the original Management Agreement remain unchanged and unaffected by this Addendum and shall continue in full force and effect. A copy of this Addendum No. 1 shall be affixed to the original Management Agreement as it may have been amended to date.

COUNTY OF MONTEREY, a political subdivision of the State of California

By: Jerry Armenta

Its: Vice Chair

Date: 10-26-12

URBAN PARK CONCESSIONAIRES, a California corporation

By: _____

Its: _____

Date: _____

SIGNED IN COUNTER PARTS

MONTEREY COUNTY WATER RESOURCES AGENCY, a political subdivision of the State of California

By: Jerry Armenta

Its: Vice Chair

Date: 10-26-12

Attachment B

ADDENDUM No. 1 to the Management Agreement between Urban Parks Concessionaires and the County of Monterey

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2. Except as provided herein, all remaining terms, conditions, provisions, entitlements and obligations of the original Management Agreement remain unchanged and unaffected by this Addendum and shall continue in full force and effect. A copy of this Addendum No. 1 shall be affixed to the original Management Agreement as it may have been amended to date.

COUNTY OF MONTEREY, a political subdivision of the State of California

By:_____

Its: Chair

Date:_____

MONTEREY COUNTY WATER RESOURCES AGENCY, a political subdivision of the State of California

By:_____

Its: Chair

Date:_____

URBAN PARK CONCESSIONAIRES, a California corporation

By: _____

Its: CEO

Date: 11/6/12

RENEWAL AND ADDENDUM NO. 2 OF AGREEMENT BETWEEN THE COUNTY OF MONTEREY & URBAN PARK CONCESSIONAIRES DBA MONTEREY LAKES RECREATION COMPANY

WHEREAS, Urban Parks Concessionaires, DBA Monterey Lakes Recreation Company ("CONTRACTOR"), and the County of Monterey a political subdivision of the State of California, ("COUNTY") previously entered into an agreement dated May 3, 2011, to manage the resort business at Lake San Antonio and Lake Nacimiento ("AGREEMENT"); and

WHEREAS, COUNTY and CONTRACTOR amended the AGREEMENT previously on October 23, 2012 via ADDENDUM NO. 1; and

WHEREAS, the AGREEMENT expired pursuant to its terms on October 31, 2013; and

WHEREAS, COUNTY and CONTRACTOR wish to renew the AGREEMENT retroactive to October 31, 2013; and

WHEREAS, COUNTY and CONTRACTOR wish to extend the term of the renewed AGREEMENT through and including January 31, 2015; and

WHEREAS, COUNTY and CONTRACTOR wish to further amend the renewed AGREEMENT to delete a provision regarding marketing services and compensation, to allow for the financial compensation terms of the AGREEMENT to be modified in the event of closure of Lake San Antonio due to low water levels, and to add a provision regarding inspections; NOW THEREFORE,

For valuable consideration, the sufficiency of which is hereby acknowledged, COUNTY and CONTRACTOR agree as follows:

1. The AGREEMENT is renewed retroactive to October 31, 2013, and all of its provisions shall be deemed to have been in effect continuously since that time.

2. The Term of this agreement shall be extended through January 31, 2015.

3. Section 3.9 of the Agreement is hereby revised to delete the following payment terms:

   "and Marketing Leadership and Creative Guidance for marketing campaigns and customer service programs for a fixed annual fee of $30,000.";

4. Add new Section 6.5 to Section 6. MANAGEMENT & MANAGEMENT INCENTIVE FEES as detailed:

   6.5 Due to environmental, economic, and/or other factors or conditions outside of the control of the COUNTY, it may be necessary for the lakes resorts facilities and operations at Lake San Antonio to be temporarily or intermittently closed to the public. In such events, the parties agree

that continued management operations would be unnecessary, unwarranted, and an inappropriate use of resources for the continued operation of lake management services.

6.5.1 Therefore, when it is determined by COUNTY that the Lake San Antonio resort operations should be suspended, COUNTY shall submit written notification to CONTRACTOR with at least 30 days' notice of lake operation closure. Such closure shall be for at least 30 days, and the Lake San Antonio resort operations shall not be reopened with less than 30 days' notice by COUNTY to CONTRACTOR unless mutually agreed to an earlier/shorter reopening deadline.

6.5.2 The parties agree and understand that the temporary cessation of Lake San Antonio resorts activities may not necessarily include cessation of all recreation activities at the facility, only those included in the management responsibilities of CONTRACTOR which are dependent upon a reasonable minimum amount of water in the Lake. Notwithstanding the fact that COUNTY may give notice to CONTRACTOR of lakes resort closure and management responsibilities of CONTRACTOR for certain operation are being suspended, other activities that are outside of the responsibilities of CONTRACTOR may continue during that time period and CONTRACTOR shall have no management or operational responsibilities for those activities not outlined in the Agreement.

6.5.3 Accordingly, and in consideration for the fact that CONTRACTOR will not have management responsibilities for the facilities when closed and will therefore not be able to recover the management fees due to the applicable reduction in economies of scale, for any 30 day period in which the lake resort operation is suspended/closed, the management fee set forth in paragraph 6.3 of the Management Agreement shall be adjusted from 1.5% to 2.5%, and shall apply only to the management operations at the Lake Nacimiento resort which would remain in operation. There shall be no additional adjustment in compensation, and, once the Lake San Antonio resort facilities are re-opened the percentage shall revert to the previous aforementioned 1.5%.

5. Add new Section 6.6 to Section 6. MANAGEMENT & MANAGEMENT INCENTIVE FEES as detailed:

6.6 As part of its administration of this Contract, COUNTY will conduct periodic inspections of CONTRACTOR operated facilities, equipment, services, and/or programs, and prepare written performance evaluations based upon its observations. A "Contractor Performance Rating", example attached hereto, or other similar format(s), as may be adopted by the COUNTY, will be utilized for evaluation purposes. The COUNTY further reserves the right of ingress and egress without notice to inspect CONTRACTOR's operations for the purposes of evaluating performance of the terms and conditions of this Contract; to inspect, investigate, and/or survey the premises; and to do any work thereon of any nature necessary for the preservation, maintenance, and operation of the County Parks facilities. CONTRACTOR agrees to cooperate with COUNTY in all respects related to the implementation of COUNTY's Contractor Performance Evaluation Program and with COUNTY'S activities on the premises. COUNTY shall not be

liable in any manner for any inconvenience, disturbance, loss of business, nuisance, other damage arising out of COUNTY's evaluation process as provided herein, except damage resulting from the active negligence or willful misconduct of COUNTY or its authorized representatives.

6. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this RENEWAL AND ADDENDUM No. 2 TO THE AGREEMENT, and shall continue in full force and effect as set forth in the AGREEMENT;

7. A copy of this RENEWAL AND ADDENDUM NO. 2 shall be attached to the original AGREEMENT dated May 3, 2011.

IN WITNESS WHEREOF, the County and CONTRACTOR execute this RENEWAL AND ADDENDUM NO. 2 as follows:

COUNTY OF MONTEREY

By: _____

Dated: 3-19-14

CONTRACTOR

By: _____
Signature of Chair, President, or Vice-President

JOHN W. KOEBERER CEO
Printed Name and Title

Dated: 2/18/14

Consented to by the MONTEREY COUNTY WATER RESOURCES AGENCY:

By: _____

Chair - Board of Directors
Printed Name and Title

Dated: 3/4/14

By: _____
*(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)**

Pamela Koeberer Pitts, Sec.
Printed Name and Title

Dated: 2/20/14

Approved as to Form:

_____
Deputy County Counsel

Dated: 2/24/14

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the 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 Amendment.