

Attachment D

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MBE Equestrian Event April 13-15, 2018

Monterey County Water Resources Agency
Grazing Lease No. San Antonio Lease 2 (SA 2)
LESSEE: Joseph E. Botts, Jr.

Amendment, Conditional Waiver and Modification No. 1

- A. The Monterey county Water Resources Agency (Agency or Lessor) and Joseph E. Botts, Jr. (Botts or Lessee) are parties to an agreement relating to San Antonio Grazing Lease No. SA 2, executed February 27, 2018 (Lease).
- B. Special Conditions of the Lease (Exhibit G) contemplate that special events may take place on the leased premises.
- C. Lessee desires to accommodate the April 13 - 15, 2018, Monterey Bay Equestrian Poker Event (MBE Event) during which some activities will take place on a portion of the leased premises. Agency does not object to the Lessee's participation in/or sponsoring of the MBE Event, provided doing so does not expose the Agency or the county of Monterey to any cost, risk, or exposure to any liability.
- D. Sections 27 and 31 of the Lease provide that provisions of the Lease may be modified or waived, including on a one-time basis, provided the Botts and the Agency agree to such modification or waiver in writing.

Now therefore the parties do agree to modify and waive provisions of the lease on the following terms and conditions:

- 1. Section 21.3 of the Lease is amended to read:

21.3 Duty to defend and indemnify LESSOR from activities: LESSEE shall indemnify, defend, and hold harmless the AGENCY, the County of Monterey, their officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting from the following uses or activities on the lease premises:

- a. boats or other vehicles catching fire on the shore; and
- b. oil, gasoline, other fuel or contaminant, or any hazardous material spill or contamination on land or in the lake.
- c. special events, such as the Monterey Bay Equestrian Poker Ride and Campout entailing the use of horses and the congregation of persons on the site.

1. The Agency concurs that the 2018 MBE Event on the San Antonio Grazing Lease No. SA 2 is consistent with the special event provisions of the Lease, provided it is conducted consistent with the conditions of this Conditional Waiver and Modification No. 1.
2. Botts provides proof of the insurance required in the Lease specifically referencing the activities in Section 21.3 of the Lease (as amended).
3. Botts may permit the MBE Event on the San Antonio Grazing Lease No. SA 2 provided the MBE Event sponsors:
 - a. Execute a hold harmless agreement in the form attached hereto as Exhibit A.
 - b. Procure and provide evidence of insurance as specified in the hold harmless agreement, including endorsements naming the County of Monterey and the Agency as additional insured for commercial general liability (including premises and operations) and business automobile liability (all motor vehicles) (Exhibit A).
 - c. Require all MBE Event participants to execute a written Release of Liability in the form attached as Exhibit B.

LESSOR: MONTEREY COUNTY
WATER RESOURCES AGENCY

APPROVED AS TO FORM:
Charles J. McKee, County Counsel

By: David E. Chardavoigne

David E. Chardavoigne

Title: General Manager

Date: 4/13/18

By: Jesse J. Avila

Jesse J. Avila

Title: Deputy County Counsel

Date: 4-12-18

LESSEE: Joseph E. Botts

By: Joseph E. Botts

Name:

Date: 4-13-18