

Project: Greenwell Preserve
APN: 005-080-004
Folio: 003412
Agent: J. Lindgren

LEASE AGREEMENT

THIS LEASE AGREEMENT, hereinafter "Agreement," is entered into by and between:

COUNTY OF SANTA BARBARA, a political
subdivision of the State of California,
hereinafter referred to as "COUNTY,"

and

THE SUMMERLAND CITIZEN'S
ASSOCIATION, a California
Nonprofit Corporation, hereinafter
referred to as "LESSEE,"

with reference to the following:

WHEREAS, COUNTY is the owner of that certain real property in the Town of Summerland, California, County of Santa Barbara, previously used for a County road yard and now known as the "Summerland Greenwell Preserve," hereinafter "Property,"

WHEREAS, LESSEE desires to assist the COUNTY and is willing to operate and maintain the Property as provided herein; and

WHEREAS, the COUNTY has determined that it is in the best public interest to allow LESSEE use of the Property pursuant to California Government Code Section 26227 which allows a board of supervisors of a county to fund programs deemed necessary to meet the social needs of the population of the county and to make available any county owned property, which will not be needed for county purposes during the time of possession, to be used to carry out such programs; and

WHEREAS, the County has determined that the Property will not be needed for COUNTY purposes during the time of possession; and

WHEREAS, under the terms of this Agreement, COUNTY is providing funding for the LESSEE through community service area funds; and

WHEREAS, the COUNTY and LESSEE have entered into successive lease agreements since 1998, whereby LESSEE has successfully maintained the Property; and

WHEREAS, COUNTY desires to execute this Agreement with LESSEE for a period of thirty (30) years, with optional extensions of two (2) five (5) year periods at the discretion of the Director of Community Services; and

NOW THEREFORE, in consideration of the premises, and the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE: The provisions of this Agreement shall be administrated and enforced for the County through the Director of Community Services Department, or designee. The Director shall have authority to issue or deny any approvals required of the Director by this Agreement. LESSEE understands and agrees that all approvals required by the Director shall be at his or her sole discretion.

2. NOTICES: Any notice or consent required to be given under this AGREEMENT shall be given under this AGREEMENT to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: Santa Barbara County
Community Services Department
123 E Anapamu Street, 2nd Floor
Santa Barbara, CA 93101
(805) 568-2461

To LESSEE: Phyllis Noble
President, SCA
P.O. Box 508
Summerland, CA 93067
(805) 451-2126

With Copy to: David Hill
Chairman
Summerland\Greenwell Preserve Project Subcommittee
P.O. Box 1353
Summerland, CA 93067

or at such address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. LEASED PROPERTY. COUNTY hereby leases to LESSEE and LESSEE hereby takes from COUNTY that property known as the Summerland Greenwell Preserve, A.P.N. 005-080-004 which consists of three building structures, an asphalt parking lot, and miscellaneous landscaping, and is referred to herein as the Property and is shown as the diagonally slashed area on Exhibit A attached hereto and incorporated herein by reference.

4. TERM: The term of this Agreement shall be for a period of thirty (30) years commencing on the date of execution of this Agreement by COUNTY and ending thirty (30) years from such date, unless earlier terminated as provided herein. The Santa Barbara County Community Services Director, at their discretion, may agree to an extension(s) of this agreement on behalf of COUNTY for two additional five-year terms, provided there are no other amendments to its terms.

5. RENT: In accordance with California Government Code Section 26227 and the COUNTY Board of Supervisors' determination that the operations of the LESSEE are a benefit to the

community, and in consideration of LESSEE operating and maintaining the Property, there will be no base rent during the term.

6. USE OF PROPERTY: LESSEE shall use the Property for the operation of a public park at no cost to users. LESSEE shall also have use of buildings on the Property. LESSEE shall permit COUNTY and its agents, employees, and independent contractors to enter onto the Property at all times. At no point shall this property be used for a for profit enterprise.

7. MAINTENANCE AND REPAIRS: LESSEE shall operate, maintain and repair at its own expense the Property. The operations, maintenance, and repairs shall be performed as necessary to keep the Property in clean, neat, sanitary and safe conditions. LESSEE's maintenance and repair does not require prior written approval by COUNTY. It is mutually understood and agreed that operations, maintenance, and repair work are the sole responsibility of the LESSEE and such operations, maintenance, and repair work shall be done in a competent manner. LESSEE shall be entitled to an annual reimbursement by COUNTY of an amount not to exceed \$3,120 each fiscal year, subject to available funding and annual budget appropriations, to off-set costs associated with ongoing maintenance and administration, including utilities and waste holding tank maintenance as described in Section 9 below.

8. ALTERATIONS AND CONSTRUCTION: During the term of this Agreement, LESSEE shall not commence with any new construction, alterations, or capital improvements to, in, on, or about the Property without the prior written approval of the Director of Community Services, who may from time to time request additional information in writing. Any construction, alteration, or capital improvement project to, in, on or about the Property shall be presented to the Director of Community Services in written form with proposed plans and specifications prior to any construction, alterations, or capital improvements. Prior to approving any preliminary construction, alteration, or capital improvement relative to the Property, the Director shall obtain the approval of a licensed COUNTY employee certifying that LESSEE plans and specifications are approved. No construction, alteration, or capital improvement which has been disapproved by the Director and/or the licensed employee shall be performed, except where the Director and licensed employee issue a subsequent written approval of such work. The Director's approval shall be conditioned upon LESSEE acquiring appropriate permits, clearances, and approvals to proceed from governmental and regulatory agencies, the furnishing of a copy thereof to the Director, or designee, prior to the commencement of work and the compliance by LESSEE with all conditions of all permits, clearances, and approvals in a prompt and expeditious manner. Any and all permits, clearances, and approvals required shall be made only on the merits of the application thereof, and nothing in this Agreement shall be construed to require that COUNTY, or any other government agency, is required to approve or conditionally approve such permits, clearances, and approvals. LESSEE shall give the Director, or designee, not less than ten (10) days written notice prior to the commencement of any work in, on or about the Property, and COUNTY shall have the right to post Notices of non-responsibility in or on the Property as provided by law.

LESSEE shall keep the Property free and clear of liens for labor and materials expended by or for LESSEE or on its behalf. LESSEE shall indemnify, hold COUNTY harmless and defend COUNTY with respect to any construction, alterations, or capital improvements.

9. UTILITIES AND SERVICES: LESSEE shall pay for utilities and services furnished to or used by it on the Property, including but not limited to water, electrical, sewer, trash collection, and natural gas. LESSEE shall pay for all services provided for or on the Property by the Santa Barbara Coastal Vector Control District (District) as stipulated in the contract agreement between COUNTY and District. LESSEE shall pay invoices submitted to LESSEE by District for services provided. As set forth in Section 7 above, LESSEE shall be provided an annual reimbursement of up to \$3,120 towards utility and service costs as funding is available.

LESSEE agrees that any utilities constructed or placed on the Property, either permanent or temporary in nature, after the effective date of this Agreement shall be subject to prior written consent by the Director of Community Services.

If LESSEE's utility or service requirements increase over the existing level of utility or service use as of the date the term of this Agreement commences, upon written approval by the Director, LESSEE, at its sole cost and expense, may install new or additional utilities or services on the Property. Installation costs shall include not only the costs of installing utilities or services on the Property, but also the cost of bringing such utilities or services to the Property. If LESSEE is constructing or remodeling improvement(s) and additional utilities or services are required (e.g., wiring, plumbing, conduits, and mains) as a result of LESSEE's changes or increased utility or service requirements, LESSEE shall pay on demand the utility or service company(ies) the total costs of said utility and/or service.

10. INDEPENDENT CONTRACTOR: LESSEE shall perform all of its services under this Agreement as an independent contractor and not as an employee of COUNTY. LESSEE understands and acknowledges that it and persons performing services for or on behalf of LESSEE shall not be entitled to any of the benefits of a COUNTY employee, including, but not limited to, vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation, and protection of tenure.

11. STANDARD OF PERFORMANCE: LESSEE represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, LESSEE shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same services that are provided by LESSEE. LESSEE shall correct any errors or omissions at COUNTY's request without additional compensation. Permits or licenses shall be obtained and maintained by LESSEE without additional compensation.

12. ANNUAL REPORT: LESSEE shall provide COUNTY with an annual report on August 1st of each year during the term of this Agreement, which shall consist of LESSEE's current Board of Directors with names, addresses, and telephone numbers; information regarding general operation and management of the Property during the preceding fiscal year, improvements completed or planned, and an accounting of all income and expenses.

13. TAXES: COUNTY shall not be responsible for paying any taxes on LESSEE's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, LESSEE agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

LESSEE acknowledges that this Agreement may constitute a taxable possessory interest in the Property and agrees to pay all possessory interest taxes, if any.

14. CONFLICT OF INTEREST: LESSEE covenants that LESSEE presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement or with LESSEE's leasehold interest in the Property. LESSEE further covenants that in the performance of this Agreement, no person having any such interest shall be employed by LESSEE.

15. RECORDS, AUDIT, AND REVIEW: LESSEE shall keep and maintain good and sufficient books and records which shall include: receipts, charges, credits, disbursements and any and all other transactions in connection therewith, including Federal, State and local tax returns; records of daily bank deposits of the entire receipts from transactions at or from the operation of the LESSEE; sales slips; daily dated cash register tapes; sales books; duplicated bank deposit slips; and, bank statements. All accounting records shall be kept in accordance with generally accepted accounting practices. Such books and records shall be separate from other business interests not a part of this Agreement. Such books and records shall be kept on or within 50 miles of the Property and be available for the inspection of officers, employees and agents of the COUNTY at all reasonable times. Such records shall be maintained by LESSEE for a period of four (4) years from date the record was created, the expiration of the Agreement, or the termination of the Agreement, whichever is later. Audits to verify LESSEE'S financial results may be conducted by the COUNTY. The COUNTY may collect from the LESSEE, for repeated, willful, or continuing failure to submit reports, maintain records, make required payments, fulfill other material requirements, or provide documents or information required pursuant to the Agreement, a penalty of \$100/day for each day the violation continues.

The COUNTY may require the LESSEE to make and complete an annual audit of receipts of LESSEE'S entire business affairs and records relating to the LESSEE'S operation under this Agreement, prepared and signed by a certified public accountant, or licensed public accountant who has prepared such audit in accordance with standards established and published by the American Institute of Certified Public Accountants and any amendments or additions thereto or successors thereof. If annual audited financial statements are not required, the LESSEE shall provide and deliver to the COUNTY'S Auditor-Controller and Community Services Department, a copy of an unaudited annual financial statement prepared in accordance with Generally Accepted Accounting Principles and delivered within 90 days of the LESSEE'S fiscal year end. The LESSEE will also provide its completed IRS Form 990 on an annual basis and evidence that the charity is currently registered with the California Secretary of State and also the California Attorney General's Registry of Charitable Trusts.

16. TITLE AND WARRANTIES: Title to the Property and all improvements now located or hereafter constructed thereon is and shall be vested in the COUNTY at all times. The title to all items of personal property now located in, upon, or around the Property shall be vested in COUNTY unless otherwise expressly agreed between the parties. The title to all items of personal property hereafter brought in, upon, or around the Property by LESSEE shall be vested in LESSEE unless otherwise expressly agreed between the parties. The LESSEE agrees to lease and accept the Property in its present condition, and the COUNTY shall have no responsibility to remove or replace any existing structures, installation, utility or pipelines except as stipulated herein.

17. INDEMNIFICATION AND INSURANCE: LESSEE shall be required to indemnify and carry and maintain insurance in accordance with the provisions of Exhibit "B" attached hereto and incorporated by reference.

18. NONDISCRIMINATION: COUNTY hereby notifies LESSEE that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein, and LESSEE agrees to comply with said provisions, and as they may be amended from time to time.

19. ASSIGNMENT: LESSEE shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY, and any attempt to assign or so transfer without such consent shall constitute grounds for termination.

20. AGENTS' INSURANCE: LESSEE shall require all agents, contractors, permittees, and licensees performing any activities or duties on the Property, to carry and maintain insurance in accordance with the provisions of Exhibit "B" attached hereto and incorporated by reference.

21. ENVIRONMENTAL IMPAIRMENT: LESSEE at LESSEE's expense, shall comply with all applicable laws, regulations, rules, and orders, regardless of when they became or became effective, including without limitation those relating to construction, grading, signage, health, safety, noise, environmental protection, waste disposal, clean-up and water and air quality, and shall furnish the COUNTY satisfactory evidence of such compliance upon the request of COUNTY.

22. TOXICS: LESSEE shall not manufacture or generate hazardous waste on the Property. LESSEE shall be fully responsible for any hazardous wastes, substances, and materials as defined under federal, state, or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported on the Property during the term of this Agreement and shall comply with and be bound by all applicable provisions of such federal, state, or local law, regulation, or ordinance dealing with such wastes, substances, or materials. LESSEE shall notify COUNTY and all appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances, or materials.

23. COMPLIANCE WITH THE LAW: LESSEE shall, at its sole cost and expense, comply with all applicable federal, state, county, and municipal laws, statutes, rules, ordinances, and regulations in effect during the term or any part of the term of the Agreement applying to or regulating the use and occupation of the Property or otherwise with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of LESSEE in any action or proceeding against LESSEE, whether COUNTY is a party thereto or not, that LESSEE has violated any such ordinance or statute, shall be conclusive of that fact as between LESSEE and COUNTY.

24. DEFAULT: Except as otherwise specified herein, should either party at any time be in default hereunder with respect to any material covenant contained herein, the non-defaulting party shall give notice to the defaulting party specifying the particulars of the default and the defaulting party shall promptly commence remedial action to cure the default. Should such default continue

uncured for a period of twenty-one (21) calendar days from such notice, then this Agreement shall terminate at the option of the non-defaulting party unless the cure of such default shall reasonably take more than twenty-one (21) calendar days in which case the defaulting party shall proceed with all due speed to cure the default and shall have a reasonable time to effectuate its cure.

25. REMEDIES: In the event of a default or breach, either party may exercise any right or remedy at law or in equity which such party may have by reason of such default or breach.

26. WAIVER: In no case is a waiver by COUNTY of any term or provision of this Agreement effective unless such waiver is expressly stated in writing and approved by COUNTY in accord with the provisions of this Agreement. It is understood and agreed that any waiver of any kind during the term of this Agreement, shall not be, nor construed to be, a waiver of any subsequent breach of a like kind or of any other provision of this Agreement.

27. TERMINATION: This Agreement shall terminate and all rights of LESSEE hereunder shall cease and LESSEE shall quietly and peacefully vacate the Property upon LESSEE's failure to cure a default as specified above, upon expiration of the term of this Agreement or any extension thereof, upon LESSEE losing appropriate non-profit status, and/or upon either party giving no less than ninety (90) days written notice of termination given at any time during the term, with or without cause.

28. SURRENDER OF PREMISES: Upon expiration of the term or other termination of this Agreement, LESSEE shall vacate and surrender possession of the Property to COUNTY in good condition, except for ordinary wear and tear.

LESSEE shall remove all its personal property within the above stated time. In addition, LESSEE shall repair all damage such removal may cause to the Property, and ensure that all potential safety hazards are remedied before returning the Property to COUNTY, including but not limited to capping and properly deactivating all affected electrical connections, panels, etc. At the sole option of COUNTY, LESSEE shall remove all improvements placed by LESSEE on the Property and perform restoration of the Property within the above stated time. COUNTY may elect to retain or dispose of in any manner any alterations or LESSEE's personal property that LESSEE does not remove from the Property on expiration or termination of this Agreement by giving at least thirty (30) days' notice to LESSEE. Title to any of LESSEE's personal property that COUNTY elects to retain or dispose of on expiration of the thirty (30) day period shall vest in COUNTY. LESSEE waives all claims against COUNTY for any damage to LESSEE resulting from COUNTY's retention or disposition of any such alterations or LESSEE's personal property. LESSEE shall be liable to COUNTY for COUNTY's costs for storing, removing, and disposing of any alterations or LESSEE's personal property.

If LESSEE fails to surrender the Property to COUNTY on expiration or termination of the Agreement, LESSEE shall hold COUNTY harmless from all damages resulting from LESSEE's failure to surrender the Property, including, without limitation, claims made by a succeeding lessee resulting from LESSEE's failure to surrender the Property.

29. SECTION HEADINGS: The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

30. SEVERABILITY: If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision as if the unenforceable provision is not contained herein.

31. REMEDIES NOT EXCLUSIVE: No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each other and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

32. TIME IS OF THE ESSENCE: Time is of the essence in this Agreement and each covenant and term is a condition herein.

33. NO WAIVER OF DEFAULT: No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

34. ENTIRE AGREEMENT AND AMENDMENT: In conjunction with matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended, or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver, or estoppels.

35. SUCCESSORS AND ASSIGNS: All representations, covenants and warranties set forth in this Agreement, by or on behalf of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

36. CALIFORNIA LAW. This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

37. EXECUTION OF COUNTERPARTS: This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as parties shall preserve undestroyed, shall together constitute one and the same instrument.

38. AUTHORITY: All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity (ies), person(s), or firm(s) and that all formal requirements necessary or required by any county, state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore,

by entering into this Agreement, LESSEE hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which LESSEE is obligated, which breach would have a material effect hereon.

39. PRECEDENCE: In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

40. ELECTRONIC SIGNATURES: In the event that the parties hereto utilize electronically transmitted documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing original signatures are provided within seventy-two (72) hours of transmission of the facsimile, except that funds shall not be released upon a electronic signature, nor shall electronic signed documents be accepted for recordation by the Clerk-Recorder of the COUNTY.

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IN WITNESS WHEREOF, COUNTY and LESSEE have signed this Lease Agreement by the respective authorized officers as set forth below to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

Das Williams

By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

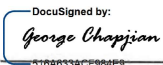
Date: _____

**RECOMMENDED FOR
APPROVAL:**

Community Services Department

LESSOR:

The Summerland Citizen's Association

By: 
George Chapjian
Department Head

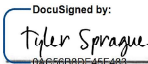
By: 
Authorized Representative
Name: Phyllis Noble
Title: President

APPROVED AS TO FORM:

Rachael Van Mullem
County Counsel

**APPROVED AS TO ACCOUNTING
FORM:**

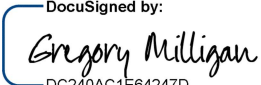
Betsy M. Schaffer, CPA
Auditor-Controller

By: 
Tyler Sprague
Deputy County Counsel

By: 
Deputy

APPROVED AS TO FORM:

Risk Management

By: 
Risk Management

R.M. Bk. 1, Pg. 20 - Ortega Ridge Rd.

NOTE - Assessor's Block Numbers Shown in Ellipses.

Assessor's Parcel Numbers Shown in Circles

NOTICE
Assessor's Office has for its administrative purposes only and does not constitute either parcel map or a valid title.

Assessor's Map Bk. 5 - Pg. 08
County of Santa Barbara, Calif.

(1/61) 07/24 76/150 Area 1/12

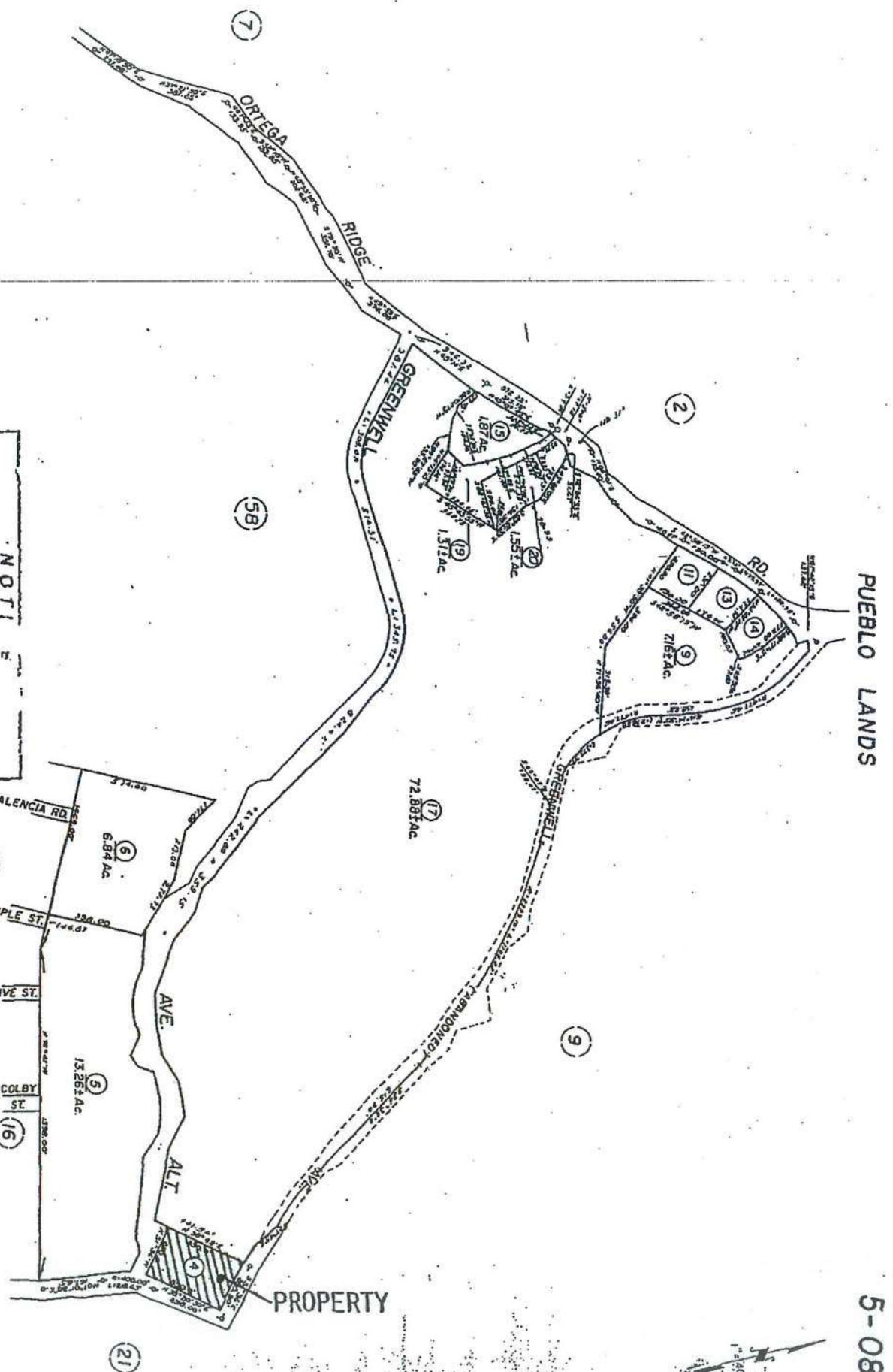


EXHIBIT B

Indemnification and Insurance Requirements (For Lease Agreements)

INDEMNIFICATION

LESSEE agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. LESSEE'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY'S sole negligence or willful misconduct.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

LESSEE shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

LESSEE shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE'S operation and use of the leased premises. The cost of such insurance shall be borne by the LESSEE.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. **(This applies to LESSEES with employees).**
3. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if LESSEE has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
4. **Property Insurance:** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision

If the LESSEE maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the LESSEE. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

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

1. **Additional Insured** – The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the LESSEE including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the LESSEE'S insurance at (least as broad as ISO Form CG 20 10).
2. **Primary Coverage** – For any claims related to this contract, the LESSEE'S insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the LESSEE'S insurance and shall not contribute with it.
3. **Legal Liability Coverage** – The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the leased property.
4. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
5. **Waiver of Subrogation Rights** – LESSEE hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said LESSEE may acquire against the COUNTY by virtue of the payment of any loss under such insurance. LESSEE agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
6. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the LESSEE to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
7. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
8. **Verification of Coverage** – LESSEE shall furnish the COUNTY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to COUNTY before occupying the premises. However, failure to obtain the required documents prior to the work beginning shall not waive the LESSEE'S obligation to provide them. The COUNTY reserves the right to require complete,

certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

9. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

10. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. LESSEE agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.