

**AGREEMENT FOR LEASE OF REAL PROPERTY  
FOR AGRICULTURAL PURPOSES**

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Between: **County of Sacramento, a political subdivision of the  
State of California**

and

\_\_\_\_\_

**REV Lease No.:** \_\_\_\_\_

**AGREEMENT FOR LEASE OF REAL PROPERTY  
FOR AGRICULTURAL PURPOSES**

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# AGREEMENT FOR LEASE OF REAL PROPERTY FOR AGRICULTURAL PURPOSES

THIS LEASE AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **COUNTY OF SACRAMENTO**, a political subdivision of the State of California, (hereinafter "County"), and \_\_\_\_\_, (hereinafter "Lessee").

## RECITALS

A. County is the owner of that certain real property situated in the County of Sacramento more particularly described as herein set forth, and herein referred to alternatively as either the "Leased Premises" or the "Premises"; and

B. The benefits to the County may be maximized by leasing the property for agricultural use pending any determination by the County to make further public use of said Premises; and

C. The County solicited request for proposals to lease Premises in September 2019. On \_\_\_\_\_, 20\_\_\_\_, Lessee submitted a proposal and, as a result of the selection and review process, was selected to lease the Premises for agricultural purposes.

D. Lessee is a(n) \_\_\_\_\_ [e.g., *sole proprietorship, partnership, corporation*] residing or with principal place of business at \_\_\_\_\_, California \_\_\_\_\_; and

E. Lessee desires to lease the Premises from County for agricultural use on the terms hereinafter set forth; and

F. County is, therefore, willing to lease the Premises to Lessee upon the promises, terms, conditions and covenants set forth hereinbelow.

## AGREEMENT

NOW, THEREFORE, it is mutually agreed as follows:

### ARTICLE I DEFINITIONS AND ATTACHMENTS

#### 1.1 CERTAIN DEFINED TERMS.

As used herein the term:

- a. "**Agricultural Purposes**" means farming operations of plowing, tilling, planting, cultivating and harvesting on the Leased Premises, in a manner consistent with Good Farming Practices (defined hereinbelow).
- b. "**Anniversary Date**" means the date which is one year after the Lease Commencement Date, and annually thereafter during the Term of this Lease Agreement.
- c. "**County**" means the County of Sacramento, its Board of Supervisors, officers, employees and agents.
- d. Unless specified otherwise herein, "**Director**" means the County Director of the Department of Waste Management and Recycling or any duly authorized officer or employee of the County acting on behalf of the Director.
- e. "**Good Farming Practices**" means those methods, actions, and activities generally performed by and consistent with sound agricultural practices commensurate with the custom and practice within the County of Sacramento. Where the Lease authorizes the presence of farm animals, all operations incident thereto shall be carried out according to the best course of animal husbandry practiced in the County of Sacramento, subject to specific limitations enumerated in this Lease.
- f. "**Premises**" or "**Leased Premises**" means that certain real property situated in the County of Sacramento, State of California, commonly known as a portion of Assessor Parcel Number (APN) 126-0080-031, located south of the Kiefer Landfill and Kiefer Boulevard, north of Jackson Road in the unincorporated area of the County of Sacramento within the community of Sloughhouse; comprising approximately 48 net acres; and more particularly described in the attached Exhibit "A", incorporated herein by this reference.
- g. "**Sign**" or "**Signs**" means any advertising sign, billboard, identification sign or symbol, poster, or other similar device, regardless of content.

## ARTICLE II PREMISES

### 2.1 DEMISE OF LEASED PREMISES.

County hereby leases to Lessee and Lessee hereby hires and accepts from County on the terms and conditions contained in this Lease Agreement the Leased Premises described herein.

**ARTICLE III  
TERM**

**3.1 ORIGINAL TERM.**

The Leased Premises are leased to Lessee for an Original Term commencing on January 1, 2020, or the date County executes this Lease Agreement, whichever occurs later in time (the "Lease Commencement Date") and terminating at 11:59 PM local time on December 31, 2029 (the "Lease Expiration Date"). A "Lease Year" is defined as a period from January 1<sup>st</sup> to December 31<sup>st</sup>.

**3.2 RENEWAL TERMS.**

Prior to Lease Expiration Date, and if Lessee is not in material breach, the parties shall have the right to extend the Original Term of this Lease for two (2) consecutive, five (5) year periods (the "Renewal Terms"), upon mutual consent of the parties, on the same terms and conditions as set forth herein, excepting the rental amount, which shall be renegotiated at each time of renewal. Lessee shall notify the County in writing of its intent to renew the Lease at least one hundred twenty (120) days prior to the expiration of the then current Term. The Director shall have the authority to approve all Renewal Terms and negotiate rent for the Renewal Terms. The Original Term and all Renewal Terms may be individually or collectively referred to herein as the "Term".

**ARTICLE IV  
RENT**

**4.1 RENT.**

Lessee shall pay to County during the Term at the office of the Director of the Department of Waste Management and Recycling, 9850 Goethe Avenue, Sacramento, California 95827, or at such other place as the County may designate in writing, without demand, offset or deduction, [*specify amount, and if not a sum certain, set forth the manner in which the amount of rent is to be calculated; e.g., as a base amount plus percentage, as specified in Exhibit "C", of verified revenue*] as Rent. Rent shall be payable on November 30<sup>th</sup> of each year. Rent for the first Lease Year shall not be prorated. Rent shall be as follows:

[Rent table on following page.]

<b>Lease Year No.</b>	<b>Lease Year</b>	<b>Rent Amount Due</b>	<b>Date Rent Due</b>
1	January 1, 2020 –December 31, 2020	\$ _____	November 30, 2020
2	January 1, 2021 –December 31, 2021	\$ _____	November 30, 2021
3	January 1, 2022 –December 31, 2022	\$ _____	November 30, 2022
4	January 1, 2023 –December 31, 2023	\$ _____	November 30, 2023
5	January 1, 2024 –December 31, 2024	\$ _____	November 30, 2024
6	January 1, 2025 –December 31, 2025	\$ _____	November 30, 2025
7	January 1, 2026 –December 31, 2026	\$ _____	November 30, 2026
8	January 1, 2027 –December 31, 2027	\$ _____	November 30, 2027
9	January 1, 2028 –December 31, 2028	\$ _____	November 30, 2028
10	January 1, 2029 –December 31, 2029	\$ _____	November 30, 2029
11*	January 1, 2030 –December 31, 2030	\$ TBD	November 30, 2030
12*	January 1, 2031 –December 31, 2031	\$ TBD	November 30, 2031
13*	January 1, 2032 –December 31, 2032	\$ TBD	November 30, 2032
14*	January 1, 2033 –December 31, 2033	\$ TBD	November 30, 2033
15*	January 1, 2034 –December 31, 2034	\$ TBD	November 30, 2034
16**	January 1, 2035 –December 31, 2035	\$ TBD	November 30, 2035
17**	January 1, 2036 –December 31, 2036	\$ TBD	November 30, 2036
18**	January 1, 2037 –December 31, 2037	\$ TBD	November 30, 2037
19**	January 1, 2038 –December 31, 2038	\$ TBD	November 30, 2038
20**	January 1, 2039 –December 31, 2039	\$ TBD	November 30, 2039
*	Renewal Term #1		
**	Renewal Term #2		

**4.2 INTEREST PAYMENT.**

In the event Lessee is in arrears for seven (7) days or more after any of the amounts agreed upon under this Lease are due, Lessee, after receiving written notice of such late condition, shall pay County interest thereon, from the date such charges became payable to the date of payment at the rate of one and one-half percent (1.5%) per month; provided, however, if the maximum interest rate provided by law is less than one and one-half percent (1.5%) per month, then the interest rate shall be the maximum legal rate.

**4.3 ADDITIONAL FEES, CHARGES AND RENTALS.**

Lessee shall pay to County additional fees, charges and rentals in the event of any of the following:

- a. If County has paid any sum or sums, or has incurred any obligation which Lessee has agreed to pay or reimburse County, or for which Lessee is otherwise responsible;



- b. If County is required or elects to pay any sum or sums, or incur any obligation or expense, because of the failure, neglect or refusal of Lessee to perform or fulfill any of the promises, terms, conditions or covenants required of Lessee hereunder;
- c. Pursuant to any separate agreement between the parties not contained herein, but made in reference hereto; or
- d. Pursuant to any ordinance, resolution or regulation of County.

Lessee's obligations pursuant to this Section 4.3 shall include all interest, costs, damages, and penalties in conjunction with such sums so paid or expenses so incurred by County, which may be added by County to any installment of fees, charges and rents payable hereunder. Each and every part of such payment by County shall be recoverable by County in the same manner and with like remedies as if it were expressly set forth herein.

For all purposes under this Article IV, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum or sums by County for or in connection with any work done or material furnished shall be prima facie evidence against Lessee that the amount of such payment was necessary and reasonable.

Lessee shall pay County pursuant to this Article IV within thirty (30) days following demand therefore, or within the time specified by applicable ordinance, resolution, or regulation of County.

**4.4 LESSEE PAYMENT OF WATER COSTS.**

Lessee shall pay all costs for the provision of water brought to or used at the Leased Premises, if any.

**ARTICLE V  
USE**

**5.1 USE OF PREMISES.**

**a. Use by Lessee.**

Lessee shall use the Leased Premises for Agricultural Purposes only. The Lessee shall not engage in any use of the Leased Premises other than as provided in this Lease Agreement without the prior written consent of the County. The Leased Premises shall not be used for the storage of any hazardous materials except those incidental, normal and routine to Lessee's use of the Leased Premises and then only in reasonable quantities and stored in accordance with all applicable laws, regulations and ordinances.

**b. Compliance with Laws.**

Lessee's use of the Leased Premises shall be in compliance with all applicable federal, state and local laws, regulations and enactments; local laws, ordinances, rules and regulations; and the requirements of any other duly authorized governmental agency. In addition, Lessee shall comply with all applicable local, state and federal occupational safety and health acts and regulations. If any failure by Lessee to comply with any such laws, regulation, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against County, Lessee shall reimburse and indemnify County for any such fine, penalty, cost or charge, including without limitation attorney's fees, court costs and expenses (excepting environmental fines and penalties which shall be handled in accordance with Sections 5.4 and 5.5 hereinafter). Lessee further agrees in the event of any such action, upon notice thereof being provided by County, to defend such action free of cost, charge or expense to County.

Lessee shall file any and all reports as required by federal, state, and local law, including by not limited to the Statement of Diversion and Use with the Division of Water Rights, California State Water Resources Control Board. Lessee shall assume responsibility for and payment of any fines or penalties levied on either County or Lessee arising from inaccurate reporting or non-compliance. In addition, Lessee shall assume responsibility for and payment of any future fees imposed by federal, state, or local government agencies related to regulatory requirements, including by not limited to diversion of water.

The provisions of this section shall survive the expiration or termination of this Lease Agreement.

c. **Restrictions.**

The agricultural uses authorized herein are subject to the following restrictions:

(1) No crops with harvest dates after the Lease Termination Date will be planted without the prior written approval of County.

(2) \_\_\_\_\_ [*Insert other restrictions - e.g., crop, area, etc., if any*].

d. **Farming Methods/Procedures.**

Lessee covenants to utilize such land and Premises in a normal and customary fashion and in accordance with Good Farming Practices and to utilize the highest degree of skill and professional standards and methods in conducting its agricultural operations. Lessee agrees that it will not utilize experimental farming methods upon the Premises without the prior written approval of County, which may be withheld in the sole discretion of the Director, and to leave the Leased Premises, including improvements, if any, in as good a condition as existed on the Lease Commencement Date, normal wear and tear excepted; provided, however, Lessee

shall not be responsible for any damage occurring to the Premises arising from acts of God or other natural conditions.

e. **Water Supply.**

County does not warrant the existence of or the water supply to the Premises. Lessee accepts the risk and is fully aware of the condition of the water supply system serving the rental premises and other lessees of County and County. Lessee understands that there are existing legal restraints or may be legal constraints upon the sources of water made available to the Leased Premises and the surrounding lands. **Lessee accepts the risk of a shortage or reduction in water supply which may arise from failures of wells, lack of legal authority to divert or deliver water and agrees hereby to waive any and all claims against County for damages, loss or reduction in crop yield or any other nature of damage or expense which may arise from water unavailability, fluctuations, or degradation of the quality of water diverted.** Lessee agrees to indemnify County, its Board of Supervisors, officers, directors, agents, employees and volunteers from any such claims or costs of defense of those claims which might be made against County by third parties claiming through Lessee or as a beneficiary of Lessees. As to any water supply features such as wells, pumps or other apparatus which require repair or replacement during the term of the Lease Agreement, Lessee shall promptly repair or reconstruct these facilities at its cost during the term of the Lease Agreement (except if damage is caused by an act of God or nature) except that if such facilities shall be damaged due to the negligence of County or its unreasonable omission to act, County shall bear the costs of repair or replacement.

- (1) **Water Conveyance Structures.** Lessee is prohibited from taking any action that would have the effect of dewatering any permanent water conveyance structures within or appurtenant to the Premises, in order to provide aquatic habitat for the Giant Garter Snake, a species protected pursuant to the Federal and California endangered species acts.

f. **Prohibited Uses at or on the Leased Premises.**

- (1) **Waste and Nuisance Prohibited.** Lessee shall not commit, or permit others to commit, waste or erect, permit to be erected, or allow to exist any nuisance on the Leased Premises.
- (2) **Trash Accumulation Prohibited.** Lessee shall not permit any trash or garbage to accumulate on or about the Leased Premises.
- (3) **Oil Exploration/Extraction.** This Lease Agreement shall not extend rights to the exploration for or extraction of any oil, gas or other mineral deposits from County's property and the Leased Premises by Lessee.

## 5.2 DUTIES.

### a. County.

County shall have no duties under this Lease with respect to the Lessee except that of refraining from interfering with Lessee's quiet use and enjoyment of the Leased Premises consistent with the terms herein contained.

### b. Lessee.

In addition to all other duties herein imposed, Lessee shall:

- (1) if applicable by other authority, report to Sacramento County Consolidated Farm Services Agency (CFSA) all information required for crops grown each season;
- (2) pay all operating costs including, but not limited to, land preparation, seed, seeding fertilizer, water, weed control, harvesting and marketing;
- (3) maintain Leased Premises in irrigated agricultural farming operations, if applicable;
- (4) maintain and repair all equipment as may be required by day-to-day operation of the Leased Premises in the same condition as received, normal wear and tear excepted;
- (5) maintain the Leased Premises and approaches to and appurtenances of the Leased Premises, including but not limited to, all fences, gates, wells, ditches, levees and roadways, and maintain them in the same condition as received, normal wear and tear excepted;
- (6) make no improvements or make any alterations or changes to existing improvements to the Leased Premises without receiving prior written approval from County. Lessee shall be responsible for installing fences where necessary;
- (7) comply with all requirements of governmental authorities in force either now or in the future, affecting the use and occupation of the Leased Premises and hold harmless and indemnify County from any liability claim, suit or judgment arising from failing to so comply;
- (8) place approved, above ground fuel tanks on a walled concrete pad designed to contain any leakage or fuel spills;
- (9) ensure that during the repair or servicing of any equipment on the Leased Premises that no discharge of any petroleum product is leaked to the ground.

All petroleum products shall be discharged only into a leak-proof container and removed from the Premises immediately. No storage of discharged petroleum products shall be permitted upon the Leased Premises;

- (10) keep all irrigation ditches, culverts, pipes, and water return systems located within the Leased Premises clean and free of weeds, debris and other obstructions restricting flow; and
- (11) notify County as soon as practicable of any damage to off-site County property, including County property not within the Leased Premises, caused by Lessee, its employees or agents, and repair same in a manner and to a standard approved in advance by the County.

Lessee shall be responsible for all costs associated with the above-described duties of Lessee. In the event Lessee fails to remedy a situation to the satisfaction of the County, County reserves the right to correct the condition at the sole expense of Lessee who agrees to pay such expense promptly following invoice presentation by County.

### **5.3 CHEMICALS AND OTHER SUBSTANCES.**

No fertilizer, pesticide, chemical or other foreign substance, except those substances (and quantities) approved by the United States Department of Agriculture, by the California Department of Food and Agriculture and by any other applicable governmental agency ("Approved Substances"), shall be stored upon or applied by Lessee to the Premises or crops growing thereon or otherwise be used by Lessee. The use of Approved Substances by Lessee shall be in strict conformity with all applicable laws, rules and regulations and with the manufacturer's instructions respecting the manner and timing of application and with all legal requirements. Approved Substances used by Lessee shall not be used in such a fashion as to impact any property other than the Leased Premises. No experimental fertilizer or chemical or genetically engineered plants shall be applied to the Premises or to the crops growing thereon, except with County's prior written consent which may be withheld in County's reasonable discretion. Lessee shall maintain records in accordance with sound business practices and all pertinent governmental regulations respecting the time, place, quality, quantity, kind and method of application of all such substances as may be utilized by Lessee and shall furnish to County, upon request, true and correct copies thereof.

Lessee shall provide to the County of Sacramento's Agricultural Commissioner at 4137 Branch Center Road, Sacramento, California 95827, all reports of the use of economic poisons as required in Sections 6624 and 6626, Title 3 Food and Agriculture, California Code of Regulation, as the same may be amended. In addition the Lessee shall comply with applicable provisions of the Food and Agricultural Code, and Title 3 Food and Agriculture, California Code of Regulations, as amended, regulating the use of economic poisons. Failure to comply with this subsection shall constitute a material breach of the Lease by Lessee.

Lessee shall store all chemicals in suitable non-leak containers and place them in secure enclosed locations.

#### **5.4 HAZARDOUS MATERIALS.**

##### **a. Lessee's Compliance with Environmental Laws.**

Lessee shall at all times in all respects comply with all environmental laws and any amendments thereto affecting Lessee's use of and operation on the Leased Premises, including all federal, state and local laws, ordinances and regulations relating to Hazardous Material. Without limiting the generality of the foregoing, reference is made to the provisions set forth in Sacramento County Code, Chapter 6.96, requiring disclosure of any Hazardous Materials used or stored on the Leased Premises, and providing to the County copies of Material Safety Data Sheets (MSDS) from the manufacturer on each product. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste that is or becomes regulated by any local government authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (1) defined as "Hazardous Waste," "Extremely Hazardous Waste" or "Restricted Hazardous Waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (2) defined as a "Hazardous Substance" under Section 25316 of the California Health and Safety Code, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (3) defined as a "Hazardous Material" or "Hazardous Substance" or "Hazardous Waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (4) defined as a "Hazardous Substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (5) petroleum or petroleum containing compounds; (6) asbestos; (7) listed under Article 9, or defined as Hazardous Wastes or Extremely Hazardous pursuant to Article 11, of Title 22 of the California Code of Regulations, Division 4, Chapter 20; (8) designated as a "Hazardous Waste" pursuant to Section 311 of the Federal Water Pollution control Act (33 USC Section 1317); (9) defined as "Hazardous Waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 USC Section 6901 et seq. (42 USC Section 6903); or (10) defined as a "Hazardous Substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability act, 42 USC Section 9601 et seq. (42 USC Section 9601).

##### **b. Indemnification by Lessee for Hazardous Materials Contamination.**

If Lessee causes, or permits the use or storage of hazardous materials resulting in contamination of the Leased Premises, then Lessee shall indemnify, defend and

hold County harmless from any claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Term of this Lease Agreement as a result of such contamination. This indemnification of County by Lessee includes, without limitation, costs incurred in connection with any reasonable investigation of site conditions or any cleanup, remedial action, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Leased Premises, excepting pre-existing conditions. In no event shall Lessee be responsible for any contamination found on or under the Leased Premises that existed prior to Lessee's occupancy. Without limiting the foregoing, if the presence of any Hazardous Material on the Leased Premises caused or permitted by Lessee results in any contamination of the Leased Premises, Lessee shall promptly take all actions at its sole expense as are necessary to render the Leased Premises in compliance with all applicable environmental laws; provided that County's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse effect on the Leased Premises.

The provisions of this section shall survive the expiration or termination of this Lease Agreement.

**c. Approval Required Regarding Hazardous Material.**

Lessee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Leased Premises by Lessee, its officers, members, agents, employees, guests, contractors or invitees without the prior written consent of the County. With respect to Hazardous Materials normally and routinely used in Lessee's operations, the County's approval shall be a continuing approval subject to review on such periodic basis as the County determines is appropriate.

**d. Notices.**

Lessee shall promptly notify County and County shall promptly notify Lessee in writing of: (1) any enforcement, cleanup, removal or governmental or regulatory action instituted, completed or threatened pursuant to any Hazardous Materials laws; (2) any claim made by any person against Lessee or the Leased Premises relating to damage, contribution, cost recovery compensation, loss or injury resulting from or claiming to result from any Hazardous Materials in or on the Leased Premises; and (3) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Leased Premises, including any complaints, notices, warning or asserted violations in connection therewith (but excluding routine manifests, records or receipts that are submitted to environmental agencies for purposes of documenting waste disposal or product receipt activities). Lessee shall also supply to County and County shall also supply to Lessee as promptly as possible, and in any event within ten (10) business days after the other first receives or sends the same, copies of all

claims, reports, complaints, notices or warning or asserted violations relating in any way to the Leased Premises or the other's use thereof.

e. **Right of Entry.**

During the Term of this Lease Agreement, upon advance notice, County, or those authorized by County, shall have the right of entry to test and determine the extent of any contamination of the Leased Premises provided that any such testing shall not unreasonably disrupt or interfere with Lessee's operations. The results of such tests (including any reports, documents or test results) shall be simultaneously provided to the County and Lessee.

f. **Copies of Environmental Audits.**

Lessee may review any environmental audits performed prior to the effective date of this Lease Agreement and in County's possession at a time convenient to County in County's office. County is deemed to have disclosed to Lessee and Lessee is deemed to have actual knowledge of the environmental conditions of the Leased Premises.

g. **Environmental Audit on Termination.**

County shall have the right to require Lessee to conduct an environmental audit upon expiration or earlier termination of this Lease. Said audit shall be conducted at Lessee's expense according to the procedures and by a person or entity approved by the County. The results of any such audit (including any reports, documents or test results) shall be simultaneously provided to the County and Lessee.

h. **No Warranty.**

**County does not warrant the environmental condition of the Lease Premises at any time; including but not limited to the time of execution by Lessee, the Lease Commencement Date, or during the Term, of the Lease Agreement.**

## 5.5 PROTECTED NATURAL RESOURCES.

a. **Lessee's Compliance with Environmental Laws.**

Lessee shall at all times in all respects comply with all environmental laws and any amendments thereto affecting Lessee's use of and operation on the Leased Premises, including all federal, state and local laws, ordinances and regulations relating to endangered, threatened and other sensitive species. Without limiting the generality of the foregoing, reference is made to the provisions set forth in the California Endangered Species Act (California Fish and Game Code Section 2050, et seq.); the Federal Endangered Species Act (16 U.S.C. Sections 1531 – 1543); and the Federal Migratory Bird Treaty Act (16 U.S.C. Sections 703-712).



Lessee shall assume responsibility for and payment of any fines or penalties levied on either County or Lessee by any applicable local, state or federal authority (hereinafter "Authority") for breaches by Lessee of the Authority's environmental regulation. Lessee agrees to be solely liable for the payment of all fines and penalties resulting from Lessee's breach of Authority's environmental regulations, except and in proportion to the extent caused by the negligence or willful misconduct of County.

In addition, Lessee understands and acknowledges that, during the Term of this Lease Agreement, the environmental regulations implemented or imposed by the Authority on County and Lessee may change and Lessee specifically agrees to comply with any future applicable environmental regulations implemented or imposed by the Authority on County or Lessee.

The provisions of this section shall survive the expiration or termination of this Lease Agreement.

**b. Avoidance and Minimization.**

Lessee shall at all time engage in appropriate avoidance and minimization measures to prevent the unlawful take, possession or destruction of any protected species. This includes birds-of-prey, and the take, possession or destruction of the eggs and nests of any such bird.

**c. Natural Resource Coordinator.**

The County of Sacramento Department of Waste Management and Recycling (9850 Goethe Road, Sacramento, CA 95827; Phone: (916) 875-6789, Fax: (916) 875-6767) will be contacted concerning any questions related to this paragraph. The Department of Waste Management and Recycling will be contacted before any tree is removed or pruned to ensure that appropriate nest tree avoidance and minimization measures are implemented.

**5.6 CULTURAL RESOURCES.**

If any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains be encountered during any activities, work shall be suspended and the County's Department of Planning and Environmental Review (PER) shall be immediately notified at (916) 874-6141. At that time, PER will coordinate any necessary investigation of the find with appropriate specialists as needed. The project applicant shall be required to implement any mitigation deemed necessary for the protection of the cultural resources. In addition, pursuant to Section 5097.97 of the State Public Resources Code and Section 7050.5 of the State Health and Safety Code, in the event of the discovery of human remains, all work is to stop and the County Coroner shall be immediately notified. If the remains are determined to be Native American,

guidelines of the Native American Heritage Commission shall be adhered to in the treatment and disposition of the remains.

## **ARTICLE VI MAINTENANCE**

### **6.1 MAINTENANCE.**

Lessee shall maintain the property, including any improvements, in as good condition as at the beginning of the tenancy, normal wear and depreciation beyond the Lessee's control excepted, and shall faithfully perform those maintenance tasks specifically enumerated under Lessee's Duties set forth above.

### **6.2 HUSBANDRY-LIKE OPERATION.**

Lessee will operate the Premises in an efficient and husbandry-like manner which is consistent with Good Farming Practices in the County of Sacramento and which will conserve the County's property.

### **6.3 WEED ABATEMENT; FIRE BREAKS.**

Lessee will be responsible for weed abatement and for creating and maintaining fire breaks on the Leased Premises throughout the Term hereof. Said abatement and fire breaks shall be in accordance with all applicable Fire Code provisions and, in addition, shall conform to any requirements deemed necessary by County for adequate protection of County-owned property.

## **ARTICLE VII TERMINATION AND REMEDIES**

### **7.1 EARLY TERMINATION BY LESSEE.**

- a. Lessee may terminate this Lease prior to expiration of the Term hereof upon the happening of one or more of the following events:
  - (1) Assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Premises, or any substantial part thereof, in such manner as to substantially restrict Lessee in its operations hereunder for a period of ninety (90) consecutive calendar days.
  - (2) Issuance by a court of competent jurisdiction of a permanent injunction that in any way prevents or restrains use of the Premises in a manner substantially restricting Lessee's operations hereunder.

- (3) Default by County in the performance of any promise, term, condition or covenant required of it to be performed hereunder, provided County fails to cure such default within sixty (60) calendar days following receipt of written notice of such default from Lessee. However, if the nature of such default is such that it cannot reasonably be cured within such period, County shall be deemed to have cured such default if within such period County commences performance thereof and thereafter diligently prosecutes the same to completion.
- b. Early termination by Lessee pursuant to this section shall be upon not less than thirty (30) days advance written notice to the County, which notice shall state the basis of such termination and the effective date thereof.
- c. In the event of early termination by Lessee pursuant to this section, Lessee shall pay Rent to County, to and including the date of such termination, in accordance with Section 4.1 hereinabove. County agrees to make a proportionate reimbursement to Lessee for any Rent paid but not earned.

## **7.2 EARLY TERMINATION BY COUNTY.**

- a. County may terminate this Lease prior to expiration of the Term hereof upon thirty (30) days' notice to Lessee, or less if indicated below, and the happening of one or more of the following events:
  - (1) **Monetary Default:**
    - (a) Lessee remains in arrears in any payment of Rent required by Article IV for a period of three (3) days or more following written notice of such arrearage from County served upon Lessee as provided herein for the giving of notice.
    - (b) Lessee fails or refuses to pay any fees required by this Lease to be paid within three (3) days following written notice of such default from County served upon Lessee as provided herein for the giving of notice.
  - (2) **Non-Monetary Default:**
    - (a) Lessee fails to obtain or maintain the insurance required by this Lease.
    - (b) Lessee abandons the Premises.
    - (c) Lessee fails to use the Premises as herein authorized.
    - (d) Lessee fails to maintain the Premises as herein required.

- (e) Upon the breach of any condition, covenant or term hereof.
  - (f) Lessee makes a general assignment for the benefit of its creditors or suffers an attachment, execution or receivership, without discharge within thirty (30) days.
  - (g) Lessee files a voluntary petition, or becomes the subject of an involuntary petition in any proceedings in Bankruptcy Court.
- b. **Possession by County upon Early Termination.** In the event County exercises its Section 7.2 early termination rights, Lessee acknowledges and agrees that County may assume immediate and lawful possession of the Premises.
- c. With respect to the Non-Monetary Defaults described in Subsections a(2)(b) through (e) of this section, the default by Lessee in performance of any promise, term, condition, or covenant required of it hereunder, shall not be a default hereunder unless Lessee fails to cure such default within three (3) calendar days following receipt of written notice of such default from County served upon Lessee as herein provided. Further, if the nature of such default is such that it cannot reasonably be cured within such period, Lessee shall be deemed to have cured such default if within such period Lessee commences performance thereof and thereafter diligently prosecutes the same to completion.
- d. Failure to serve notice of termination upon the happening of any of the events described herein shall not operate to bar, destroy or waive County's right to thereafter declare such termination upon the subsequent happening of any such event.
- e. The happening of any of the events in Subsection 'a' of this section shall constitute a material breach of the Lease by Lessee.

### **7.3 COUNTY'S REMEDIES.**

- a. The remedies set forth in this section shall be in addition to all other remedies that County may have in the event of breach of this Lease by Lessee, and nothing herein contained shall be construed to limit County's right to pursue the same, whether in law or in equity.
- b. Pursuant to Section 1951.2 of the California Civil Code:
  - (1) In the event that Lessee breaches this Lease and abandons the property before the end of the Term hereof, or if Lessee's right to possession is terminated by County because of a breach of this Lease, this Lease terminates. Upon such termination, the County may recover from Lessee:

- (a) the worth at the time of award of the unpaid Rent that had been earned at the time of termination;
  - (b) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided;
  - (c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term hereof after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; and
  - (d) any other amount necessary to compensate County for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease, or which in the ordinary course of things would be likely to result therefrom.
- (2) The "worth at the time of award" of the amounts referred to in Subsections b(1)(a) and (b) of this section is computed by allowing interest at the rate of 10%. The "worth at the time of award" of the amount referred to in Subsection b(1)(c) of this section is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1 percent.
- (3) Damages which County may recover pursuant to Subsection b(1)(c) of this section include the "worth at the time of award" of the amount by which the unpaid Rent for the balance of the Term hereof exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided; or County may recover damages pursuant to Subsection b(1)(c) of this section in the event that County relets the Premises prior to the time of award and proves that in reletting the property it acted reasonably and in a good-faith effort to mitigate the damages.
- (4) Efforts by County to mitigate the damages caused by Lessee's breach of this Lease do not waive County's right to recover damages pursuant to said Section 1951.2 and this section.
- (5) Nothing in this section affects the right of County under this Lease to indemnification for liability arising prior to the termination of this Lease for personal injuries or property damage, as herein provided.
- c. Notwithstanding the foregoing, in the event of Lessee's breach of this Lease Agreement and abandonment of the Premises, pursuant to Section 1951.4 of the California Civil Code, County may, at its sole option, elect to continue this Lease

and enforce all its rights and remedies hereunder against Lessee, including the right to recover the Rent as it becomes due.

- d. The Director shall have the authority to initiate litigation on behalf of County to enforce the terms of this Lease Agreement and regain lawful possession in accordance with the remedies stated herein.

#### **7.4 CUMULATIVE REMEDIES.**

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

### **ARTICLE VIII GENERAL CONDITIONS**

#### **8.1 ACCORD AND SATISFACTION.**

No payment by Lessee or receipt by County as a lesser amount than the Rent, fees and/or charges due from Lessee hereunder shall be deemed to be other than on account of the Rent, fees and/or charges due, and no endorsement or statement on any check or in any letter accompanying any check or payment as Rent, fees and/or charges shall be deemed an accord and satisfaction, and County may accept such check or payment without prejudice to County's right to recover the balance of such Rent, fees and/or charges or to pursue any other remedy provided in this Lease Agreement.

#### **8.2 EXPENSES.**

Except as otherwise expressly provided, this Lease shall be without cost to County for the maintenance and improvement of the Leased Premises.

#### **8.3 UTILITIES.**

Lessee shall be responsible at Lessee's sole cost and expense for payment of all charges for electric power, water, sewer, garbage, waste removal, and any other charges in connection with the use of said Leased Premises.

#### **8.4 LICENSES AND PERMITS.**

Lessee shall obtain, at Lessee's sole cost and expense, all necessary licenses and permits required for construction of improvements or installation of equipment on the Leased Premises, and any other licenses or permits necessary for the conduct of Lessee's operations.

#### **8.5 TAXES, POSSESSORY INTEREST, AND SPECIAL TAXATION.**

- a. Lessee shall, at Lessee's sole cost and expense, pay any and all taxes, assessments, and other charges of whatsoever character that may be levied or charged upon Lessee's interest, as herein may be created; improvements; operations; or right to use of the Premises.
- b. Under this Lease a possessory interest subject to property taxation and special taxation may be created. Pursuant to California Revenue and Taxation Code Section 107.6, and Chapter 2.5 (commencing with Section 53311), Part 1, Division 2, Title 5, of the Government Code, notice is hereby given that such property interest may be subject to property taxation and special taxation if created, and that the party in whom the possessory interest is vested may be subject to the payment of property or special taxes levied on such interest.
- c. **Lessee's Right to Contest Taxes:**
  - (1) Lessee shall have the right to contest in its own name, or, to the extent reasonably necessary, in County's name, in good faith and by all appropriate proceedings, the amount, applicability, or validity of any tax assessment pertaining to the Premises and Lessee's operations thereon.
  - (2) In the event Lessee initiates such contest, County shall reasonably cooperate with Lessee, provided that such contest will not subject any part of the Premises to forfeiture or loss; and provided, further, that if Lessee contests any assessment made by the Assessor of County, such contest shall not be initiated in the name of County, and County shall not be obligated to cooperate therewith.
  - (3) If at any time payment of any tax or assessment becomes necessary to prevent any forfeiture or loss, Lessee shall timely pay such tax or assessment to prevent such forfeiture or loss.

## **8.6 INSURANCE; LIABILITY.**

- a. **Insurance.** Throughout the Term of this Lease Agreement, Lessee for itself and its officers, representatives, agents, employees, subcontractors, licensees, invitees, guests and suppliers shall maintain in full force and effect the forms of insurance specified in Exhibit "B", attached hereto and incorporated herein by this reference.
- b. **No liability for loss or damage to Lessee's equipment or structures.** In the event that Lessee's equipment or structures installed on the Premises are damaged in any way, irrespective of the cause, County shall not be liable therefore and Lessee shall have no claim or right against County for the costs of repair or replacement. This clause is intended as a complete release of liability in favor of County, including without limitation all claims whether known or unknown, liquidated or unliquidated, contingent or absolute. Lessee has knowledge of and understands the

terms and effect of California Civil Code Section 1542, and voluntarily waives the benefit of the terms of that statute.

#### **8.7 RISK REDUCTION.**

Lessee shall neither use nor permit the use of the Leased Premises in such a manner as to increase the rate of insurance thereon in excess of that in existence at the commencement of the Term hereof.

#### **8.8 INDEMNIFICATION.**

By acceptance of this Lease Agreement, Lessee hereby agrees to defend (with counsel reasonably acceptable to County), indemnify, and hold harmless County, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all demands, claims, actions, liabilities, losses, damages, and costs, including reasonable attorney's fees, arising out of or resulting from the condition or use of the Leased Premises, or from activity or operations on Leased Premises during Lessee's possession thereof, regardless of whether caused in part by a party indemnified hereunder.

The provisions of this section shall survive the expiration or early termination of this Lease Agreement.

#### **8.9 NOTICE OF CLAIMS AND SUIT.**

- a. County and Lessee shall each give the other prompt and timely written notice of any personal injury or other accident claim for in excess of ONE THOUSAND AND NO/100ths DOLLARS (\$1,000.00), and of any lawsuit coming to its knowledge when either such claim or lawsuit arises out of or is in any way connected with the Leased Premises or the operations of Lessee hereunder, which in any way, directly, indirectly, contingently or otherwise, might reasonably affect the parties' relationship under this Lease.
- b. Such notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of such claim by an officer, agent, or employee of either party, and if given within ten (10) calendar days following the date of service of process upon either party with respect to any such lawsuit.

#### **8.10 FORCE MAJEURE.**

Neither County nor Lessee shall be deemed to be in breach of this Lease if either is prevented from performing any of its obligations hereunder by reason of strike, boycott, labor dispute, embargo, shortage of energy or materials, act of God, act of a public enemy, act of a superior governmental authority, weather conditions, rebellion, riot, sabotage, or any other circumstance for which it is not responsible, or which is not within its control.

#### **8.11 DAMAGE OR DESTRUCTION.**



If destruction, total or partial, occurs during the Term of this Lease, this Lease may be terminated by either party. If major repairs to the Premises are required or needed during the Term of this Lease, County may elect to terminate this Lease rather than make the repairs to the Premises. Thirty (30) days written notice of termination by either party must be made to the other party if the entitled party desires to terminate this Lease rather than make major repairs.

#### **8.12 ACCEPTANCE OF LEASED PREMISES "AS IS"; DISCLAIMER:**

Lessee hereby accepts the Premises "as is", in the condition existing at the Lease Commencement Date. Lessee's taking possession of the Leased Premises shall be conclusive evidence that the condition thereof is satisfactory to Lessee. County makes no representation or warranty that the Leased Premises are suitable for the uses to which Lessee shall be restricted under this Lease Agreement. Further, County makes no representation or warranty of soil suitability for the growing of any crops that Lessee is authorized to grow under this Lease.

#### **8.13 COUNTY'S RESERVED RIGHTS.**

a. **Entry.**

- (1) County reserves the right, without liability to Lessee, to enter the Premises for purposes of inspection, surveying, test hole boring, and any use not substantially interfering with Lessee's use.
- (2) County, its officers, agents, and employees shall have the right, without limitation, throughout the Term of this Lease to enter upon the Premises for any lawful purpose, including the purpose of determining whether Lessee is complying with its obligations hereunder. Such entry by County shall not be deemed to excuse Lessee's performance of any promise, term, condition, or covenant required of it by this Lease, and shall not be deemed to constitute waiver thereof by County.

b. **Reassignment.**

County reserves the right, at any time during the Term of this Lease, to demand and receive reassignment from Lessee of all, or any portion of, said Premises for any purposes other than that authorized by this Lease. Any such demand by County for reassignment shall be made in writing. Lessee hereby agrees that County's decision in the matter shall be conclusive and further agrees to make such reassignment when so requested. If any portion of said Premises are reassigned to County as provided herein, the parties hereto agree that the terms of this Lease shall remain in full force and effect with regard to the Premises not reassigned. If applicable, Rent based on acreage will be adjusted to reflect the change in acreage. County shall not

be liable for any of Lessee's costs associated with County's exercise of its rights herein.

#### **8.14 SURRENDER/HOLDING OVER.**

- a. Lessee shall peaceably surrender possession of the Premises upon expiration or earlier termination of this Lease in as good order and condition as when received, excepting reasonable wear, destruction by lightning or other natural causes, or fire not caused by the acts or omissions of Lessee, its officers, agents, employees, subcontractors, customers, invitees, or other persons doing business with Lessee, or on the Premises with the consent of Lessee.
- b. Upon expiration or earlier termination of this Lease Agreement, Lessee shall promptly remove all personal property not owned by County. All injury or damage to County property caused by such removal shall be repaired at Lessee's sole cost and expense. Lessee shall remove such personal property within thirty (30) days of such expiration or earlier termination date. Should Lessee fail to remove or dispose of such property in a manner satisfactory to County, County may, at its election, consider such property abandoned and dispose of same at Lessee's expense. After sixty (60) days of such expiration or earlier termination, County may declare the personal property of Lessee to be County property.
- c. If Lessee remains in possession of the Leased Premises for sixty (60) or fewer days following the expiration or earlier termination of this Lease, such holding over shall not be deemed to constitute an extension or renewal of this Lease. In the event of such holding over, Lessee shall perform all terms, promises, conditions and covenants, required of it hereunder. County may increase the Rent at any time during the holdover period to up to one hundred ten percent (110%) of the previous Lease Year's Rent. County may terminate within the 60-day hold over period upon thirty (30) days' notice.
- d. Pursuant to California Code of Civil Procedure, Section 1161, Subsection 2 concerning tenancy upon agricultural lands, if Lessee remains in possession of the Leased Premises for more than sixty (60) days following the expiration of the Term of this Lease, without any demand for possession or notice to quit being given by the County or any successor in estate of the County, Lessee shall be deemed to be holding over by permission of the County or such successor in estate of the County, if any there be, and Lessee shall be entitled to hold over under the terms of the Lease Agreement as in effect immediately prior to such expiration for another Lease Year, and such holding for the period aforesaid shall be taken and construed as a consent on the part the Lessee to be bound by all of the terms and conditions thereof for another Lease Year.

#### **8.15 NOTICES.**

- a. **Designation of Location.**

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other, shall be in writing, and shall be either personally delivered or sent by first class mail in a postpaid envelope, addressed as follows:

To County: To Lessee:

County of Sacramento  
Department of Waste Management & Recycling  
9850 Goethe Road  
Sacramento, CA 95827  
(916) 875-6789

*Name*  
*Street Address*  
*City, CA ZIP*

**b. Change of Location.**

Either party hereto shall have the right by giving notice to the other, to change the address at which it will receive such communications. Such communications shall be deemed received upon delivery, if personally delivered, or on the fifth (5th) day following deposit in the mail, if sent by mail.

**8.16 ASSIGNMENT AND SUBLETTING.**

Lessee shall neither sublet the Premises, nor any part thereof, nor assign this Lease, in whole or in part, without the prior written consent of the County, which consent shall not unreasonably be withheld.

**8.17 OPEN AIR BURNING.**

Lessee shall not do any burning on the Premises without the prior written permission of the County. Additionally, Lessee shall obtain the permits and authorizations required by law or ordinance when conducting any such authorized burning.

**8.18 HUNTING PRIVILEGES.**

No hunting is permitted on the Premises. A violation of this covenant shall constitute a material breach of this Lease. Lessee shall undertake reasonable effort to prevent hunting by third parties on the Premises.

**8.19 SIGNS.**

Lessee shall not erect, maintain, or display any sign on the Premises without the prior written consent of the County.

**8.20 REPORTS AND RECORDS.**

Lessee shall submit to County for approval, on or before October 1st (or other appropriate date) of each and every year during the Term of this Lease, a crop plan, if applicable, showing the location and net acreage of each crop Lessee intends to grow during the growing season for the year said crop plan is submitted. Only crops approved in a crop plan may be grown; and no deviations therefrom are authorized without the prior written approval of the County.

**8.21 SUBORDINATION TO OIL AND GAS LEASE AND/OR PRODUCTION.**

It is agreed that any oil or gas leases covering any part of the Premises, or any such leases hereafter made by County for the purpose of drilling for, storing or transporting oil, gas or other hydrocarbon substances and the rights and privileges granted under said lease or leases shall take priority over this Lease, and nothing contained in this Lease shall operate or be constructed to interfere with any such lease or leases for the aforesaid purposes, provided however, that Lessee shall be reimbursed for his pro rata share for damages to growing crops, if any. Lessee's authorized use of the Premises shall not interfere with any rights under any oil or gas lease between County and other parties with respect to the Premises.

**8.22 CONSERVATION EASEMENT.**

County reserves the right to encumber the Leased Premises with a conservation easement during the Term of the Lease. The Leased Premises may be encumbered, currently or in the future, by a conservation easement as the same is authorized and provided for in California Civil Code Section 815 et seq. The provisions of any such conservation easement are incorporated herein by this reference, and are binding upon the tenant.

**8.23 NATURE OF TENANCY.**

Lessee is not eligible for relocation payment or assistance as a consequence of this tenancy. No relocation payment or assistance will be made to Lessee by County upon termination of tenancy.

**8.24 TITLE TO THE PREMISES.**

Fee title to the Premises are and shall remain vested in County. Nothing contained in this Lease and no action or inaction by County shall be deemed or construed that County has granted to Lessee any right, power or permission to do any act or to make any agreement which may create, give rise to, or be the foundation for, any right, title, interest, lien, charge or other encumbrance upon the estate of County in the Premises.

**8.25 TITLE TO LEASEHOLD IMPROVEMENTS.**

Title to all existing buildings or other improvements, and any additions, improvements or alterations by Lessee upon the Premises shall, upon expiration or sooner termination of this Lease, vest in County without further consideration to Lessee.

**8.26 INDEPENDENT CONTRACTOR.**

Lessee is not an employee or agent of County by reason of this Lease, or otherwise. Lessee is an independent contractor, and as between County and Lessee, Lessee shall be solely responsible for its acts and omissions arising from or relating to its operations or activities.

**8.27 NEGATION OF PARTNERSHIP.**

Nothing in this Lease shall be construed to render County in any way or for any purpose, a partner, joint venturer, or associate in any relationship with Lessee, other than that of landlord and tenant, nor shall this Lease Agreement be construed to authorize either County or Lessee to act as agent for the other.

**8.28 RESTRICTIONS AND REGULATIONS.**

This Lease Agreement, and the rights herein granted, shall be subject to any and all applicable federal, state and local rules, regulations, orders and restrictions which are now in force or which may hereafter be adopted by any duly authorized governmental agency with respect to Lessee's operation.

**8.29 HEADINGS.**

The headings of the articles and sections of this Lease Agreement are inserted only as matter of convenience and for reference and do not define or limit the scope or intent of any provisions of this Lease, and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

**8.30 INTERPRETATION OF AGREEMENT.**

It is agreed and acknowledged by the parties hereto that the provisions of this Lease Agreement have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to seek revision of the provisions of this Lease Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing and interpreting this Lease Agreement.

**8.31 APPLICABLE LAW.**

This Lease Agreement shall be interpreted and enforced in accordance with the statutory and decisional law of the State of California.

Any litigation filed or arbitration sought by Lessee or County against the other regarding the terms of this Lease Agreement, performance of a party's obligations under this Lease Agreement, or any other reason related in any way to this Lease Agreement, shall be filed in a federal or state court of competent jurisdiction located in Sacramento, California.

**8.32 ATTORNEY'S FEES AND COSTS.**

Any party may bring a suit or proceeding to enforce or require performance of the terms of this Lease Agreement, and each party in that suit or proceeding shall be responsible for its own attorney's fees and costs.

**8.33 NONWAIVER OF RIGHTS.**

No waiver of default by either party hereto of any of the terms, promises, covenants, or conditions hereof to be performed, kept, and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, promises, covenants, or conditions herein contained, to be performed, kept, and observed by such other party.

**8.34 CREDIT REPORTING.**

The Lessee understands and acknowledges if the Lessee fails to fulfill the terms of their obligations within this Lease Agreement, a negative credit report reflecting the Lessee's credit may be submitted to a credit-reporting agency.

**8.35 AUTHORITY FOR AGREEMENT.**

Lessee warrants and represents that Lessee has the right, power, and legal capacity to enter into and perform its obligations under this Lease Agreement, and no additional approvals or consents of any person or entity are necessary in connection therewith. The execution, delivery, and performance of this Lease Agreement by the undersigned Lessee has been duly authorized by all necessary corporate or other applicable action, and this Lease Agreement constitutes a legal, valid, and binding obligation of Lessee, enforceable in accordance with its terms.

**8.36 AUTHORITY OF DIRECTOR.**

The Director shall administer this agreement on behalf of County. Unless otherwise provided herein or required by applicable law, the Director shall be vested with all rights, powers, and duties of County hereunder. With respect to matters hereunder subject to the approval, satisfaction, or discretion of County or the Director, the decision of the Director in such matters shall be final.

**8.37 CONSENT.**

Whenever the consent or approval of either party hereto is required or authorized hereunder, such consent or approval shall not be unreasonably withheld, conditioned, or delayed.

**8.38 SUCCESSORS AND ASSIGNS.**

The provisions of this Lease Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the parties hereto.

**8.39 TIME OF THE ESSENCE.**

Time is of the essence in the performance of this Lease.

**8.40 EXECUTION OF AGREEMENT.**

Submission of this document by County for review, examination or execution by Lessee does not constitute a reservation of an option to lease the Leased Premises or any other property within the County of Sacramento, and this document shall not be effective as a lease agreement, or otherwise, unless and until approved by the Board of Supervisors of the County or executed by the officer authorized by said Board.

**8.41 SUPERSEDES.**

This Lease Agreement supersedes and cancels any and all oral negotiations or previously executed agreements between the parties hereto pertaining to the herein described Premises.

**8.42 ENTIRE AGREEMENT.**

This Lease Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein. This Lease Agreement may be amended only by written instrument duly executed by the parties hereto.

**8.43 DUPLICATE COUNTERPARTS.**

This Lease Agreement may be executed in duplicate counterparts. The Lease Agreement shall be deemed executed when it has been signed by both parties.

Signatures scanned and transmitted electronically shall be deemed original signatures for purposes of this Lease Agreement, with such scanned signatures having the same legal effect as original signatures. This Lease Agreement may be executed through the use of an electronic signature and will be binding on each party as if it were physically executed.

*(Remainder of Page Left Intentionally Blank)*

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease Agreement to be duly executed as of the day and year first above written.

**COUNTY OF SACRAMENTO**, a political subdivision of the State of California (LESSEE NAME)

BY: \_\_\_\_\_  
Jeffrey A. Gasaway, Director  
Department of General Services  
Resolution No.: \_\_\_\_\_  
Dated: \_\_\_\_\_

BY: \_\_\_\_\_  
*Lessee Name*

"COUNTY"

"LESSEE"

REVIEWED AND APPROVED  
BY COUNTY COUNSEL:

\_\_\_\_\_  
Deon C. Merene  
Deputy County Counsel

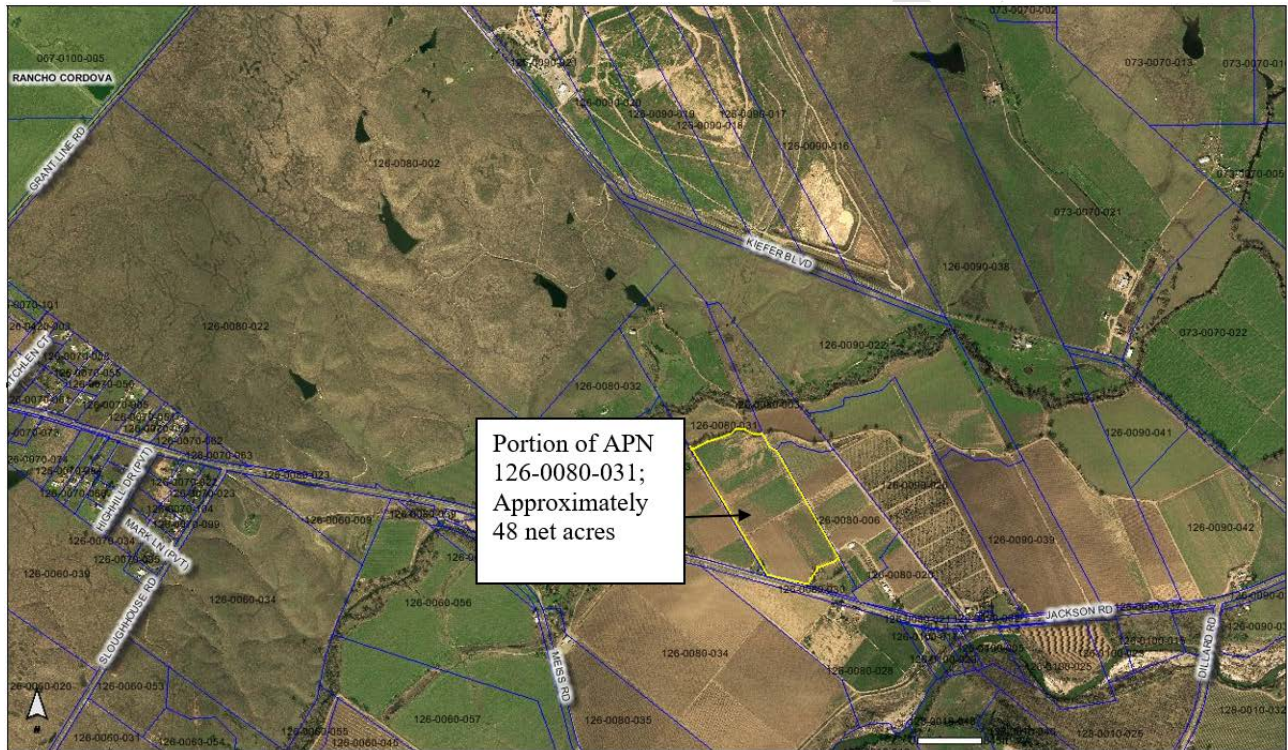
APPROVED AS TO TERMS:

\_\_\_\_\_  
Doug Sloan, Director  
Department of Waste Management and Recycling



**EXHIBIT "A"**  
**MAP AND DESCRIPTION**

***THE PREMISES ARE  
OUTLINED AND CONTAIN  
APPROXIMATELY 48 NET ACRES.***



**EXHIBIT "B"**  
**INSURANCE REQUIREMENTS**

Without limiting Lessee's indemnification, Lessee shall procure and maintain for the duration of the Lease insurance against claims for injuries to persons or damages to property that may arise from or in connection with the use of the Premises hereunder by Lessee, his agents, representatives or employees. County shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of County's Risk Management Office the insurance provisions in these requirements do not provide adequate protection for County and for members of the public, County may require Lessee to obtain insurance sufficient in coverage, form and amount to provide adequate protection. County's requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

**Verification of Coverage**

Lessee shall furnish the County with certificates evidencing coverage required below. Copies of required endorsements must be attached to provided certificates. The County Risk Manager may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the Risk Manager, the interests of the County and the general public are adequately protected. All certificates or evidences of self-insurance are to be received and approved by the County before performance commences. The County reserves the right to require that Lessee provide complete, certified copies of any policy of insurance offered in compliance with these specifications. As an alternative to insurance certificates, the Lessee's insurer may voluntarily provide complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required by these specifications.

**Minimum Scope of Insurance**

- A. The County agrees that it shall, during the full Term of this Lease and its own expense, keep the Leased Premises and any structural improvements on the Leased Premises insured in sufficient amounts against loss or damage by fire and other casualty commonly covered by standard fire and all risk coverage insurance including flood coverage. Valuation shall be on a replacement cost basis. The County does hereby release and waive on behalf of itself and its insurer by subrogation or otherwise, all claims against Lessee on account of any fire or other casualty whether or not such fire or other casualty shall have resulted in whole or in part from the negligence of Lessee.
- B. Lessee agrees that it shall, during the full Term of this Lease and at its own expense, keep its contents, non-structural improvements and personal property located on the Leased Premises fully insured against loss or damage by fire or other casualty, commonly covered by standard fire and all risk coverage insurance including flood coverage. Valuation shall be on a replacement cost basis. Lessee does hereby release and waive on behalf of itself and its insurer by subrogation or otherwise, all claims against County on account of any fire or other casualty whether or not such fire or other casualty shall have resulted in whole or in part from the negligence of County.
- C. Lessee shall maintain property damage and public liability insurance covering the Leased Premises. Liability insurance coverage shall be not less than One Million Dollars (\$1,000,000)

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combined single limit per occurrence for injury or property damage. Lessee shall name the County of Sacramento and its Board of Supervisors, officers, directors, agents, employees and volunteers as additional insureds on Lessee's liability insurance policy and such policy shall be endorsed to show that Lessee's liability insurance policy is primary.

- D. Lessee shall maintain auto liability insurance including coverage for owned, non-owned and hired autos with a combined single limit of not less than one million US dollars (\$1,000,000) per accident.
- E. Lessee shall maintain Worker's Compensation; Statutory requirements of the State of California and Employer's Liability Insurance with a limit of \$1,000,000 per accident for bodily injury or disease. Lessee shall have the Workers Compensation policy endorsed to state that the Worker's Compensation carrier waives its rights of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Lease Agreement by the Lessee.
- F. Lessee shall furnish a certificate of insurance substantiating the fact that Lessee has taken out the insurance herein set forth for the period covered by the Lease Agreement with an insurance carrier(s) with an A.M. Best financial rating of not less than A-: VII and authorized to do business in the State of California. Lessee's insurance policy required by this Lease Agreement shall maintain all insurance coverages and limits in place at all times and provide County with evidence of each policy's renewal ten (10) days in advance of its anniversary date.
- G. Lessee is required by this Lease Agreement to immediately notify County if they receive a communication from their insurance carrier or agent that any required insurance is to be canceled, non-renewed, reduced in scope or limits or otherwise materially changed. Lessee shall provide evidence that such cancelled or non-renewed or otherwise materially changed insurance has been replaced or its cancellation notice withdrawn without any interruption in coverage, scope or limits. Failure to maintain required insurance in force shall be considered a material breach of the Lease Agreement.
- H. The certificate of insurance shall be filed with the Internal Services Agency, Real Estate Division, not less than ten (10) days prior to the date of occupancy by the Lessee.
- I. County is self-insured for liability and shall furnish Lessee a letter confirming this upon request.
- J. Notification of Claim. If any claim for damages is filed with Lessee or if any lawsuit is instituted against Lessee, that arise out of or are in any way connected with Lessee's performance under this Lease Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect County, Lessee shall give prompt and timely notice thereof to County. Notice shall not be considered prompt and timely if not given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

### **Other Insurance Provisions**

The insurance policies required in this Lease Agreement are to contain, or be endorsed to contain, as applicable, the following provisions:

1. **ADDITIONAL INSURED STATUS:** The County, its officers, directors, officials, employees, and volunteers are to be endorsed as additional insureds as respects: liability arising out of activities performed by or on behalf of the Lessee; products and completed operations of the Lessee; premises owned, occupied or used by the Lessee; or automobiles owned, leased, hired or borrowed by the Lessee. The coverage shall contain no endorsed limitations on the scope of protection afforded to the County, its officers, directors, officials, employees, or volunteers. Applicable to General Liability and Auto Liability Policies.
2. **PRIMARY INSURANCE:** For any claims related to this Lease Agreement, the Lessee's insurance coverage shall be endorsed to be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, directors, officials, employees, or volunteers shall be excess of the Lessee's insurance and shall not contribute with it. Applicable to General Liability and Auto Liability policies.
3. **FAILURE TO COMPLY:** Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the County, its officers, directors, officials, employees, agents or volunteers. Applies to policies in which the County is named as an additional insured.
4. **SEVERABILITY OF INTEREST:** The Lessee 's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Applicable to General Liability and Auto Liability policies.
5. **MAINTENANCE OF INSURANCE COVERAGE:** The Lessee shall maintain all insurance coverages in place at all times and provide the County with evidence of each policy's renewal ten (10) days in advance of its anniversary date. Each insurance policy required by this clause shall state that coverage shall not be canceled by either party, reduced in coverage, or reduced in limits, except after thirty (30) days' written notice has been given to the County. For non-payment of premium 10 days' prior written notice of cancellation by mail is required. Applicable to all policies.
6. **WORKERS' COMPENSATION WAIVER OF SUBROGATION:** The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Lease Agreement by the Lessee.
7. **PROPERTY WAIVER OF SUBROGATION:** Course of construction policies shall contain the following provisions:
  - A. The County shall be named as loss payee.
  - B. The insurer shall waive all rights of subrogation against the County.

8. **CIVIL CODE PROVISION:** Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
9. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-: VII. The County Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of the County and the general public are adequately protected.
10. **SUBCONTRACTORS:** Lessee shall require all subcontractors to maintain adequate insurance.

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