



ORIGINAL

Contract Number

23-254

SAP Number

Real Estate Services Department

Department Contract Representative

Telephone Number

Terry W. Thompson, Director

(909) 387-5000

Contractor

SJS Enterprises, Inc. dba SC Village

Contractor Representative

Giovanni D'Egidio

Telephone Number

(562) 307-5510

Contract Term

10 years commencing the first day of the calendar month following full execution

Original Contract Amount

\$965,429.64

Amendment Amount

\$0.00

Total Contract Amount

\$965,429.64

Cost Center

7810001000

GRC/PROJ/JOB No.

87004236

Internal Order No.

Briefly describe the general nature of the contract: This lease agreement is for a period of 10 years commencing on the first day of the calendar month following full execution of the lease for the use of a total of approximately 54 acres of unimproved County-owned land, comprising approximately 50 acres for use as a recreational paintball/airsoft facility [commonly known as Assessor's Parcel Number (APN) 1057-221-18 (portion), 1057-221-19 (portion), and 1057-221-21(portion)] and approximately 4 acres for use as an unimproved parking area [commonly known as APN 1057-221-19 (portion)], located along Hellman Avenue between Chino Rincon Road and McCarty Road in the city of Chino, California. County shall receive monthly rent in the amount of \$7,382.11, which shall remain fixed for the first four years and thereafter shall receive (i) the fixed rent at an escalation of 4% on the fifth and each subsequent year during the lease term, or (ii) 6% of the TENANT's monthly gross revenue, whichever is greater.

FOR COUNTY USE ONLY

Approved as to Legal Form

Reviewed for Contract Compliance

Reviewed/Approved by Department

► SEE SIGNATURE PAGE

Agnes Cheng, County Counsel

►

►

Lyle Ballard, Real Property Manager, RESD

Date _____

Date _____

Date 3/8/23

SAN BERNARDINO COUNTY

LEASE AGREEMENT

TENANT: SJS Enterprises, Inc.
9030 Somerset Blvd.
Bellflower, CA 90706

COUNTY: San Bernardino County
Real Estate Services Department
385 N. Arrowhead Ave.
San Bernardino, CA 92415-0180

PREMISES: A total of approximately 54 acres of unimproved County-owned land, comprising approximately 50 acres for use as a recreational paintball/airsoft facility [commonly known as Assessor's Parcel Numbers (APNs) 1057-221-18 (portion), 1057-221-19 (portion), and 1057-221-21 (portion)] and approximately 4 acres for use as an unimproved parking area [commonly known as APN 1057-221-19 (portion)], located along Hellman Avenue between Chino Rincon Road and McCarty Road in Chino, California, as more particularly described in Exhibit "A" and generally depicted in Exhibit "A-1" attached hereto.

TERM OF LEASE: 10 Years

OPTIONS TO EXTEND: None

COMMENCEMENT DATE OF LEASE: Commencing on the first day of the calendar month following full execution of the Lease

COUNTY CONTRACT NUMBER:

DOCUMENT REVISION DATE:

DATE TYPED:

TABLE OF CONTENTS

PARAGRAPH	CAPTION	PAGE
<u>1.</u>	<u>PARTIES</u>	1
<u>2.</u>	<u>PREMISES LEASED</u>	1
<u>3.</u>	<u>TERM</u>	1
<u>4.</u>	<u>RENT</u>	1
<u>5.</u>	<u>RECORDS AND ACCOUNTS</u>	2
<u>6.</u>	<u>SECURITY DEPOSIT</u>	5
<u>7.</u>	<u>HAZARDOUS SUBSTANCES</u>	5
<u>8.</u>	<u>NON-LIABILITY</u>	6
<u>9.</u>	<u>LIENS</u>	6
<u>10.</u>	<u>ABANDONMENT OF PREMISES</u>	7
<u>11.</u>	<u>RETURN OF PREMISES</u>	7
<u>12.</u>	<u>TAXES</u>	7
<u>13.</u>	<u>USE</u>	7
<u>14.</u>	<u>HEALTH, SAFETY AND FIRE CODE REQUIREMENTS</u>	7
<u>15.</u>	<u>SIGNS</u>	7
<u>16.</u>	<u>MAINTENANCE</u>	7
<u>17.</u>	<u>ALTERATIONS</u>	8
<u>18.</u>	<u>FIXTURES</u>	8
<u>19.</u>	<u>UTILITIES</u>	8
<u>20.</u>	<u>IDEMNIFICATION</u>	8
<u>21.</u>	<u>INSURANCE REQUIREMENTS AND SPECIFICATIONS</u>	8
<u>22.</u>	<u>MAJOR DESTRUCTION OF PREMISES</u>	11
<u>23.</u>	<u>COUNTY'S ACCESS TO PREMISES</u>	12
<u>24.</u>	<u>NOTICES</u>	12
<u>25.</u>	<u>INCORPORATION OF PRIOR AGREEMENT</u>	12
<u>26.</u>	<u>WAIVERS</u>	12
<u>27.</u>	<u>AMENDMENTS</u>	13
<u>28.</u>	<u>SUCCESSORS</u>	13
<u>29.</u>	<u>SEVERABILITY</u>	13
<u>30.</u>	<u>TIME-OF-ESSENCE</u>	13
<u>31.</u>	<u>QUIET ENJOYMENT</u>	13
<u>32.</u>	<u>PROVISIONS ARE COVENANTS AND CONDITIONS</u>	13
<u>33.</u>	<u>CONSENT</u>	13
<u>34.</u>	<u>EXHIBITS</u>	13
<u>35.</u>	<u>LAW</u>	13
<u>36.</u>	<u>ATTORNEY'S FEES AND COSTS</u>	13
<u>37.</u>	<u>VENUE</u>	13
<u>38.</u>	<u>CAPTIONS, TABLE OF CONTENTS AND COVER PAGE</u>	13
<u>39.</u>	<u>SURVIVAL</u>	13
<u>40.</u>	<u>BROKER'S COMMISSIONS</u>	13
<u>41.</u>	<u>ESTOPPEL CERTIFICATES</u>	14
<u>42.</u>	<u>ASSIGNMENT AND SUBLETTING</u>	14
<u>43.</u>	<u>TERMINATION</u>	14

PARAGRAPH	CAPTION	PAGE
<u>44.</u>	<u>FORMER COUNTY OFFICIALS</u>	14
<u>45.</u>	<u>MISREPRESENTATIONS</u>	14
<u>46.</u>	<u>DISCLOSURE</u>	14
<u>47.</u>	<u>DEFAULT AND RIGHT TO TERMINATE</u>	15
<u>48.</u>	<u>INTERPRETATIONS</u>	16
<u>49.</u>	<u>HOLDOVER</u>	16
<u>50.</u>	<u>ENTIRE AGREEMENT</u>	17
<u>51.</u>	<u>AUTHORIZED SIGNATORS</u>	18
	EXHIBIT "A" – Premises Description	
	EXHIBIT "A-1" – Premises Depiction	
	EXHIBIT "B" – List of Former County Officials	

LEASE AGREEMENT

1. **PARTIES:** This lease agreement ("Lease") is made between San Bernardino County ("COUNTY") as landlord, and SJS Enterprises, Inc. dba SC Village ("TENANT"), as tenant, whose address is 9030 Somerset Blvd. Bellflower, CA 90705.

2. **PREMISES LEASED:** COUNTY leases to TENANT and TENANT leases from COUNTY a total of approximately 54 acres of unimproved County-owned land, comprising approximately 50 acres for use as a recreational paintball/airsoft facility ("Facility Area") [commonly known as APN 1057-221-18 (portion), 1057-221-19 (portion), and 1057-221-21 (portion)], and approximately 4 acres for use as an unimproved parking area ("Parking Area") [commonly known as APN 1057-221-19 (portion)], located along Hellman Avenue between Chino Rincon Road and McCarty Road, Chino, California (unless individually referred to, the Facility Area and the Parking Area are hereinafter collectively referred to as the "Premises"), as each area of the Premises is more particularly described in Exhibit "A", Premises Description and each area of the Premises is generally depicted in Exhibit "A-1", Premises Depiction, which exhibits are attached hereto and incorporated herein by reference. The TENANT acknowledges and agrees that the Premises is provided to TENANT in its "AS-IS" condition without any representations or warranties by COUNTY as to its condition or suitability for TENANT's intended use.

3. **TERM:** This Lease shall commence on the first day of the calendar month following full execution of this Lease ("Commencement Date") and continue thereafter for a period of ten (10) years until the day immediately prior to the tenth (10th) anniversary of the Commencement Date ("Term"). Rents for any partial month shall be prorated based on the actual number of days in the month.

4. **RENT:** For the first month of the first year of the Term, TENANT shall pay to COUNTY the monthly rent in the amount set forth for Year 1 in Paragraph 4.A. below in advance on the Commencement Date without any offset. For each and every month thereafter during the Years 1 through 4 of the Term, TENANT shall pay to COUNTY the monthly rent as set forth in Paragraph 4.A. For each and every month thereafter commencing in Year 5, TENANT shall pay County the monthly rent in the amount that is the greater of: (i) the minimum monthly payments set forth for each year of the Term in Paragraph 4.A below; or (ii) six percent (6%) of the TENANT's Gross Revenues (as defined in Paragraph 4.B.) at the Premises during the immediately preceding month, which amount shall be payable on or before the tenth (10th) day of each such month without any offset and remitted along with the documents required by Paragraph 5.C. The obligations in this paragraph shall survive the expiration or earlier termination of the Lease.

A. Minimum Monthly Rent for the Premises:

Year 1 – monthly payments of \$7,382.11
Year 2 – monthly payments of \$7,382.11
Year 3 – monthly payments of \$7,382.11
Year 4 – monthly payments of \$7,382.11
Year 5 – monthly payments of \$7,677.40
Year 6 – monthly payments of \$7,984.49
Year 7 – monthly payments of \$8,303.87
Year 8 – monthly payments of \$8,636.07
Year 9 – monthly payments of \$8,981.47
Year 10- monthly payments of \$9,340.73

B. Gross Revenues Definition:

1. The term "Gross Revenues" as used in this Lease is defined as all money, cash, receipts, assets, property or other things of value, including, but not limited to, gross charges, sales (excluding retail sales of merchandise, except for paintballs), rentals, sponsor payments, fees, and commissions made or earned and

all gross sums generated or received by TENANT and any of its subtenants when collected or accrued from any business, use or occupation, or any combination thereof, originating, transacted, or performed, in whole or in substantial part, on the Premises, including, but not limited to, rental, the rendition or supplying of services and the sale of admission tickets, activities, event space, events, concessions, paintballs, and coin machines or devices of any nature. Gross Revenues in credit card transactions shall include only the actual amount received by TENANT from the credit card issuer. Gross Revenues shall not include returns and exchanges and loans of equipment and inventory to/from entities related to TENANT and/or repayments to/from same, revenues derived from sources/locations other than on the Premises, or the sale of all or any part of TENANT or TENANT's interest in the Lease.

2. There will be no deduction from Gross Revenues of any overhead or expense of operations, such as, but not limited to, salaries, wages, cost of goods, advertising, interest, debt amortization, discount, collection, insurance and taxes, except as specifically provided for herein.

3. Gross Revenues will include the amount of any manufacturer's or importer's excise tax included in the prices of any rendered or supplied services and the sale of admission tickets, activities, event space, events, concessions, goods, wares or merchandise, and coin machines or devices of any nature, even though the manufacturer or importer is also the retailer thereof; and it is immaterial whether the amount of such excise tax is stated as a separate charge.

4. Gross Revenues, however, will not include Federal, State of California, or municipal sales and excise taxes required to be collected by TENANT or its subtenants in connection with the rendering or supplying of services and the sale of admission tickets, activities, event space, events, concessions, goods, wares or merchandise, and coin machines or devices of any nature or other taxes collected from the customer (regardless of whether the amount thereof is stated to the customer as a separate charge) and paid by TENANT to a governmental agency, provided that TENANT submits a copy of the tax returns for said sales and excise taxes for each tax reporting period during the Term evidencing the amount of said taxes deducted. Notwithstanding that such taxes are excluded from Gross Revenues; the amount of such taxes will be shown on the books and records elsewhere herein required to be maintained by TENANT.

C. Rent – All rent shall be paid to COUNTY at the address to which notices to COUNTY are given and must be accompanied by the monthly report required by **Paragraph 5., RECORDS AND ACCOUNTS**. All monthly rent and other amounts due to COUNTY under this Lease shall collectively be referred to as "Rent."

D. Late Payment – TENANT acknowledges that late payment by TENANT to COUNTY of Rents or any other sums due under this Lease will cause COUNTY to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing, accounting, and interest charges. Therefore, if any installment of Rents or other sums due from TENANT is not received by the tenth day after the due date, TENANT shall pay to COUNTY an additional One Hundred Dollars (\$100.00) per occurrence as an administrative processing charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs that COUNTY will incur by reason of late payment by TENANT. Acceptance of a late charge, including partial payments, will not constitute a waiver of TENANT's default with respect to the overdue amount nor prevent COUNTY from exercising any of the other rights and remedies available to COUNTY. Rents not paid when due will bear simple interest from the date due until paid in full at the rate of five-hundredths percent (0.05%) per day.

5. **RECORDS AND ACCOUNTS:**

A. Records and Accounts – TENANT covenants and agrees that it will, at all times during the Term of this Lease, keep or cause to be kept at either: (i) the Premises, (ii) TENANT's address at 9030 Somerset Blvd., Bellflower, CA or (iii) or other place agreed upon by TENANT and COUNTY, true and complete books, records, and accounts of all financial transactions relating to Gross Revenues. The records must be supported

by documents from which the original entry of the transaction was made, including sales slips, cash register tapes, or software generated end of day sales reports.

B. Recordation of Sales – All sales and charges must be recorded by means of sales invoices, tickets or cash registers which display to the customer the amounts of the transactions and either physically or automatically issue receipts certifying the amounts recorded. The approved forms or devices used in the recording of cash or charge sale transactions are as follows:

1. Cash Registers – Cash registers must be of a type that displays to the customer the amount of each transaction if space permits. The register must be equipped with devices, which lock in sales total, transaction records, and with counters which are not resettable, and which record on tapes the transaction numbers and sales details. Cash register readings must be recorded by TENANT at the beginning and end of each business day.

2. Cash Receipt and Charge Sales Book – Cash receipt and charge sales books must be of the type that is electronically printed progressively or pre-numbered by the system or manufacturer of said books; and the amounts of each transaction, to include the sales tax amount, must be recorded on the original and all copies thereof. The customer must be given a copy of the sales receipt that clearly records the total amount of the transaction. Sales must be recorded consecutively; one after the other, and the beginning and ending number of the receipt books must be duly recorded at the end of each business day.

3. Cash Tickets – Cash tickets may be used in conjunction with all admission charges and must be of a type that is electronically printed progressively or pre-numbered by the manufacturer or system. The price of the tickets both for adults and children must be printed on each ticket. Tickets may be procured by the customer from a cashier's booth or station. TENANT must, at the end of each business day, record the tickets sold for that day's business. All tickets must be sold consecutively, in numerical order, one after the other. Alternatively, TENANT may utilize an electronic debit card system rather than printed tickets, duly recorded each day.

4. Any other form or device used in the recording of cash or charge sale transactions, e.g., TENANT's Point of Sale electronic software system, that is approved by COUNTY, which approval shall not be unreasonably withheld.

C. Monthly Reports – Commencing from and after the third month of the fifth year of the Term and continuing through one month after the expiration or earlier termination of this Lease, regardless of whether the Rent payable for the relevant month will be the minimum monthly Rent or based on Gross Revenues, TENANT covenants and agrees to deliver to COUNTY, no later than the tenth (10th) day of each third month along with the monthly Rent due, a true and correct certified statement of all Gross Revenues and attendance figures for the immediately preceding three calendar months, showing separately the receipts from each type of revenue at the Premises, and the amount of sales and excise tax recorded by TENANT for said three months ("Gross Revenues Report"), which report shall be subject to verification at any time during the Term by San Bernardino County Real Estates Services Fiscal Department, which is in addition to COUNTY's rights in Paragraph 5.F. At the same time that TENANT submits the Gross Revenues Report, TENANT shall include a true and correct copy of any sales and excise tax returns filed by TENANT to the State Board of Equalization (BOE) and any other taxing authority for the immediately preceding three calendar months that supports the sales and excise stated by TENANT in the subject Gross Revenues Report. In the event that any sales and excise tax returns are not filed by TENANT on a monthly basis, TENANT shall submit to a true and correct copy of any sales and excise tax returns filed by TENANT with each taxing authority within thirty (30) days after its filing. In the event there are any discrepancies between the sales and excise taxes shown in the tax returns and said taxes shown on TENANT's Gross Revenues Report submitted to COUNTY for the period covered by the tax returns, TENANT shall remit the amount of the discrepancy to COUNTY along with a calculation of the discrepancy when TENANT

sends a true and accurate copy of the tax returns to COUNTY. The obligations in this paragraph shall survive the expiration or earlier termination of the Lease.

D. Reserved.

E. Reserved.

F. Inspection of Records – All books, records, and accounts of every kind or nature kept by TENANT or its agents, employees, or contractors relating to the Gross Revenue, referred to herein as “Books and Records”, must at all reasonable times be open and made available for inspection or audit by COUNTY, its agents or employees, upon prior request.

G. Audit – COUNTY has the right to during the term of this Lease or within one (1) year after the expiration of this Lease and/or any extensions, to audit, at no cost to TENANT except as hereinafter provided, the Books and Records for the purpose of verifying the payments required to be paid to COUNTY hereunder. In the event that COUNTY exercises its audit rights, COUNTY shall provide written notice to TENANT, which notice shall include the name of COUNTY’s auditor, who may be member of COUNTY’s staff or a third-party. TENANT shall have the right to approve COUNTY’s auditor, which approval shall not be unreasonably withheld, delayed, or conditioned. If TENANT does not respond to the COUNTY’s notice to approve its auditor within 30-days of COUNTY’s notice, then TENANT shall be deemed to have approved COUNTY’s auditor. In the event that such audit shows that TENANT understated Gross Revenues by more than ten percent (10%), the reasonable cost of the audit shall be paid by TENANT within ten (10) days after the audit report is furnished to TENANT. Additionally, within such ten (10) days, TENANT must pay to COUNTY the full amount of any underpayment demonstrated by such audit, together with interest on the amount of such underpayment at the rate of three percent (3.0%) per year from the original due date of the underpayment until the underpayment is paid in full. COUNTY reserves the right to require the installation any accounting devices or machines for the purpose of accounting or audit. Books and Records must be maintained and safeguarded by TENANT for a period of one (1) years from and after the expiration or earlier termination of this Lease. In the event that the audit finds that TENANT has understated Gross Revenues by more than ten percent (10%) and TENANT disputes such finding, within ten (10) days after the date TENANT receives the audit findings, TENANT may submit a written request to the COUNTY’s Director of the Real Estate Services Department (RESD Director) for review of the audit findings. If the RESD Director determines that no material errors occurred in the audit and affirms the audit findings, the TENANT shall pay the amounts due as a result of the audit within ten (10) days after receipt of the RESD Director’s determination. If the RESD Director determines that material errors occurred in the audit, the RESD Director shall provide TENANT with a written determination of the amounts due from TENANT, if any, resulting from his or her review of the audit with any amounts due from TENANT to be paid within ten (10) days after the TENANT’s receipt of the RESD Director’s determination. If TENANT disputes the RESD Director’s determination, within ten (10) days after the date the RESD Director’s determination is received by TENANT, TENANT may submit a written request to the COUNTY’s Chief Executive Officer (CEO) for review of the audit results and the RESD Director’s determination. If the CEO determines that no material errors occurred in the audit or the RESD Director’s determination, the TENANT shall pay the amounts due as affirmed by the CEO within ten (10) days after receipt of the CEO’s determination. If the CEO determines that material errors occurred in the audit or the RESD Director’s determination, the CEO shall provide TENANT with a written determination of the amounts due from TENANT, if any, resulting from his or her review of the audit with any amounts due from TENANT to be paid within ten (10) days after the TENANT’s receipt of the CEO’s determination. The parties hereby agree that the determination of the CEO regarding the audit findings shall be binding on the parties.

H. Upon both parties accepting the third-party audit results any discrepancies shall be paid to either party of any amounts owed with-in thirty (30) days of the acceptance of the discrepancy and not longer than sixty (60) days after TENANT submits, as described hereinabove to COUNTY for review.

I. Compliance Covenant – TENANT covenants that it will comply with and require all its agents and employees to comply with the foregoing requirements.

6. **SECURITY DEPOSIT:** Upon execution of this Lease by the COUNTY and TENANT, TENANT shall pay to COUNTY a security deposit of Ten Thousand and 00/100 Dollars (\$10,000.00), which COUNTY shall retain for the faithful performance by TENANT of the terms of this Lease. Said security deposit may be used by COUNTY for any lawful purpose including, but not limited to, the compensation of COUNTY for TENANT's default in the payment of Rents, the repair of damages to the Premises and improvements located thereon caused by TENANT, and its employees, contractors, and agents, and in COUNTY's performance of TENANT's repair and/or maintenance obligations and any other TENANT obligations under this Lease. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF ANY RENTS, INCLUDING BUT NOT LIMITED TO THE LAST MONTH'S RENTS.** If the security deposit used by COUNTY toward Rents, repair, maintenance, damages, or any permitted or lawful purpose during the Term, TENANT agrees to reinstate said total security deposit to the amount stated in this Paragraph 6 upon five (5) days written notice delivered to TENANT in accordance with this Lease. If the security deposit is used by COUNTY toward repair, maintenance, damages, or other permitted or lawful purpose during the Term, actual costs plus a twenty percent (20%) management overhead fee will be utilized by COUNTY in COUNTY's performance of TENANT's obligations. COUNTY may maintain the security deposit separate and apart from COUNTY's Rent revenue accounts or may commingle the security deposit with COUNTY's said revenue funds. COUNTY shall not be required to pay TENANT interest on the security deposit. Payment of said security deposit shall not in any manner affect TENANT's obligation to timely pay in full any Rents due pursuant to this Lease, including timely payment of the last months' Rents. Payment of said security deposit shall not affect TENANT's obligations relative to any other provision of this Lease. Upon expiration of this Lease, COUNTY shall refund said security deposit to TENANT minus any outstanding obligations of TENANT due to COUNTY at the time. Any costs incurred by the COUNTY to restore the Premises to rental condition, for any unpaid Rents, to remedy TENANT defaults, and repair damages shall be withheld, and any refund of TENANT's security deposit shall be made in the amount and manner established by Section 1950.5 of the California Civil Code.

7. **HAZARDOUS SUBSTANCES.**

A. Definition – For purposes of this agreement, the term "Hazardous Substance" means any: (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. ("RCRA"); Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the Clean Water Act, 33 U.S.C. Sections 1251 et seq.; the California Hazardous Waste Control Act, Health and Safety Code Sections 25100 et seq.; the California Hazardous Substance Account Act, Health and Safety Code Sections 25330 et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5 et seq.; California Health and Safety Code Sections 25280 et seq. (Underground Storage of Hazardous Substances); the California Hazardous Waste Management Act, Health and Safety Code Sections 25170.1 et seq.; California Health and Safety Code Sections 25501 et seq. (Hazardous Materials Response Plans and Inventory); or the California Porter-Cologne Water Quality Control Act, Water Code Sections 1300 et seq., all as amended, (the above-cited California state statutes are hereinafter collectively referred to as "the State Toxic Substances Laws") or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court, (c) petroleum or crude oil other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) asbestos.

B. In connection with this Lease: (a) TENANT agrees and acknowledges that it has had an opportunity to investigate the Premises and their environs for the presence of any hazardous substance; (b) any and all reports, studies, analyses, estimates, maps, drawings, materials, etc. delivered by COUNTY to TENANT, without any representations or warranties, preceding execution of this Lease, if any, are delivered to TENANT as an accommodation and not with the intent that such items be relied upon by TENANT; and (c) TENANT's decision to enter into this Lease is based upon the investigation, study and analysis of the Premises and their environs made by TENANT or its agents and/or independent contractors, and not upon oral or written statements or representations of COUNTY. It is expressly understood by TENANT and COUNTY that all statements and representations made by COUNTY which are not included in this agreement (a) are intended by COUNTY to be made as an accommodation to TENANT in COUNTY's investigation and not in lieu of TENANT's investigation; and (b) are not to be relied and acted upon by TENANT.

C. TENANT shall not permit or authorize at any time herein relevant the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the Premises of any hazardous substance, or the transportation to or from the Premises of any hazardous substances.

D. TENANT agrees that, in addition to those obligations imposed upon it pursuant to **Paragraph 20, INDEMNIFICATION**, herein, TENANT shall indemnify, defend, protect and herein hold harmless COUNTY, its directors, officers, employees, agents, assigns, and any successor or successors to COUNTY's interest in the Property as it relates to Hazardous Substances as defined in **subparagraph 7.A.** from and against all claims, actual damages (including but not limited to special and consequential damages), punitive damages, injuries, costs, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses of any kind whatsoever paid, incurred or suffered by, or asserted against, the Premises or any indemnified party directly or indirectly arising from or attributable to: any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan concerning any hazardous substance on, under or about the Property caused by TENANT and its employees, contractors, agents, invitees, and anyone under its control during any period of occupancy, including prior to the initial commencement date of this Lease, regardless of whether undertaken due to governmental action.

E. Without limiting the generality of this indemnity, this indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364 to insure, protect, hold harmless and indemnify COUNTY for any liability arising out of TENANT's use of the Premises or caused by TENANT and its employees, contractors, agents, invitees, and anyone under its control pursuant to such sections.

8. **NON-LIABILITY:** TENANT further covenants and agrees that except for any willful misconduct, or sole negligence of the COUNTY, its employees, agents and independent contractors, COUNTY shall not be liable for any claims, actions, losses, damages, liabilities, death, or injuries to the person or property of any person whomsoever, including but not limited to TENANT and its employees, contractors, subtenants, agents, guests, and invitees at any time arising out of this Lease or the condition of the Premises from any cause whatsoever or however arising, including (without limitation) any acts, errors, or omissions of COUNTY, TENANT, or any other person.

9. **LIENS:** TENANT agrees to keep the Premises free and clear of all liens or claims of lien for all labor, machinery, equipment, materials, services, supplies, or any other items supplied or furnished at the request of the TENANT and used or consumed in connection with any operation on or off the Premises by the TENANT. Any liens on the Premises shall be removed by TENANT, at TENANT's cost, within thirty (30) days of notice from COUNTY. However, if such lien(s) is/are contested in a court of competent jurisdiction and cannot be removed within thirty (30) days, said lien(s) shall be removed as soon as practical, and TENANT agrees that it will work as diligently as possible for the removal of such liens. Should COUNTY desire to post notice of non-

responsibility upon the Premises, TENANT agrees to allow the same to be posted and to keep said notices posted thereon, all in accordance with the requirements of the laws of the State of California.

10. **ABANDONMENT OF PREMISES:** This Lease shall be considered terminated with or without notice if the Premises are abandoned by TENANT prior to the expiration of the Term. The parties agree that abandonment shall occur when TENANT voluntarily ceases to oversee the permitted operations of the Premises for a period of at least thirty (30) consecutive days. In the event of abandonment by TENANT, any pre-paid Rents will not be refunded or prorated. In the event of abandonment by TENANT, this Lease shall be considered terminated, and COUNTY may pursue its remedies under this Lease or available at law or in equity.

11. **RETURN OF PREMISES:** The TENANT agrees that it will, upon any termination of this Lease, remove all personal property and debris from the Premises and return the Premises in good condition and free of any and all Hazardous Substances generated, released, or disposed by or permitted by TENANT.

12. **TAXES:** TENANT shall pay before delinquency any and all property taxes, assessments, fees, or charges, including possessory interest taxes, which may be levied or assessed upon any personal property, improvements or fixtures installed or belonging to TENANT and located within the Premises. TENANT shall also pay all Rents or permit fees necessary or required by law for the conduct of its operation. TENANT recognizes and understands that this Lease may create a possessory interest subject to property taxation and that the TENANT may be subject to the payment of property taxes levied on such interest.

13. **USE:** The use permitted of the Premises under this Lease, subject to all pre-existing rights whether recorded or not, is limited to TENANT's operation and maintenance of a recreational paint ball/air soft facility and ancillary picnics and corporate outings in the Facility Area and to an unimproved parking area in the Parking Area (respectively, the "Permitted Use"). TENANT shall not have the right to use the Premises for any other purpose without the prior written consent of the COUNTY.

14. **HEALTH, SAFETY AND FIRE CODE REQUIREMENTS:** TENANT at its sole expense will ensure the Premises meet the applicable requirements of the Health, Safety, Fire and Building Codes, including any requirements for a notice of completion, certificate of occupancy and the Americans with Disabilities Act ("ADA"). Should the continued use of the leased Premises be in any way prejudiced or prevented due to changes in the ADA or the Health, Safety or Fire Codes, the TENANT herein shall correct, update and comply with said changes at TENANT's cost. In the event TENANT is forced to close or otherwise cease operating at the Premises as a result of TENANT's inability to obtain any required permit or certificate of occupancy based on any violation of the Health, Safety, Fire and/or Building Codes and/or of the ADA, or there is any other forced government shut-down of the Premises, and TENANT is unable to cure the defect and obtain the required permit(s) to remain open, and provided that such closure, cessation of operations, or inability to obtain permits is not caused by TENANT or anyone under its control, TENANT shall have the right to terminate the Lease and vacate the Premises with 60 days' prior written notice to COUNTY. In the event TENANT exercises its right to terminate, TENANT shall be responsible for all Rents owed pursuant to Paragraph 4 through the termination date. Any such termination pursuant to this Paragraph shall not be deemed a default of the TENANT pursuant to **Paragraph 47, DEFAULT AND RIGHT TO TERMINATE** of the Lease. TENANT shall comply with all other applicable laws, ordinances, regulations, rules, and orders of any governmental or regulatory authorities that govern the Premises and the Permitted Use.

15. **SIGNS:** TENANT will display from the Premises or marquee of the Premises only such sign or signs as are not prohibited by law, and which are approved by COUNTY.

16. **MAINTENANCE:**

A. TENANT, at its sole cost and expense, shall maintain and repair the Premises, including (without limitation) any improvements thereon, in a neat, clean, sanitary, orderly, and good operational condition. Maintenance, repair, and preventative maintenance of the Premises by TENANT pursuant to this paragraph and

this Lease includes, but is not limited to, any constructed improvements, gates, fencing, landscaping, irrigation systems, water distribution piping, and open ground.

B. TENANT shall have ten (10) days after notice from COUNTY to perform its obligation under this paragraph, except that TENANT shall perform its obligations immediately if the nature of the default presents a material hazard or emergency. Provided, however, if the nature and/or extent of TENANT's default is such that more than ten (10) days are reasonably required to complete the cure, then TENANT shall not be in default if TENANT commences its cure within said ten (10) day period and thereafter diligently prosecutes its obligation to completion. If TENANT does not perform its obligations within the time limitations in this paragraph, COUNTY after notice to TENANT can perform the obligations and have the right to be reimbursed for the sum it actually and reasonably expends (including charges for COUNTY employees and equipment) in the performance of TENANT's obligations. Any notice or demand concerning a material hazard or emergency may be made orally, by telephone or otherwise, provided that written confirmation is given within five (5) days after the oral notice or demand is made. Such confirmation shall be made as provided in **Paragraph 24, NOTICES**.

17. **ALTERATIONS:** TENANT shall not make any structural or other permanent improvements or alterations to the Premises without COUNTY's prior written approval, which shall not be unreasonably withheld, the prior written approvals of all relevant governmental authorities, including but not limited to the California Office of Grants and Local Services (OGALS), California Department of Housing and Community Development, the United States Army Corp of Engineers (USACE), and the receipt of all necessary permits and environmental approvals, including but not limited to any prior approvals required pursuant to the California Environmental Quality Act. Any such improvements or alterations made shall remain on and be surrendered with the Premises on the expiration or earlier termination of the Lease unless the COUNTY, at its option, requires removal by TENANT at TENANT's sole cost.

18. **FIXTURES:** TENANT shall have the right during the Term(s) of this Lease to install fixtures and make non-structural improvements or alterations in the Premises. Such fixtures, non-structural improvements, and alterations shall remain the property of the TENANT and may be removed by the TENANT during the Term(s) of this Lease or upon termination or expiration of this Lease prior to the date of termination or expiration, provided that the TENANT restores the Premises to the condition as it existed at the commencement of this Lease, reasonable wear and tear excluded, or the TENANT in its sole discretion may elect to surrender all or any part of such fixtures, improvements and alterations to the COUNTY, in which case TENANT shall have no duty to restore the Premises. Any such election to surrender must be in writing and accepted by COUNTY to be effective.

19. **UTILITIES:** To the extent necessary for TENANT's operation at the Premises, TENANT shall furnish to the Premises and pay all service charges and related taxes for electrical service, water, trash, sewer and all other utilities. The TENANT shall furnish and pay for its own telephone service.

20. **INDEMNIFICATION:** The TENANT agrees to indemnify, defend, and hold harmless the COUNTY and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Lease from any cause whatsoever, including the acts, errors or omissions of any person, including without limitation, the TENANT and its employees, agents, and contractors, and for any costs or expenses incurred by the COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The TENANT's indemnification obligation applies to the COUNTY's "active" as well as "passive" negligence but does not apply to the COUNTY's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. This provision of the Lease shall survive the expiration or earlier termination of the Lease.

21. **INSURANCE REQUIREMENTS AND SPECIFICATIONS:**

A. Reserved.

B. The TENANT agrees to provide insurance set forth in accordance with the requirements herein. If the TENANT uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the TENANT agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the TENANT shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

1. Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the TENANT and all risks to such persons under this Lease agreement.

If TENANT has no employees, it may certify or warrant to the COUNTY that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the COUNTY's Director of Risk Management.

If TENANT is a non-profit corporation, organized under California or Federal law, volunteers for TENANT are required to be covered by Workers' Compensation insurance.

2. Commercial/General Liability Insurance – The TENANT shall carry General Liability Insurance covering all operations performed by or on behalf of the TENANT providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- (a) Premises operations and mobile equipment.
- (b) Products and completed operations.
- (c) Broad form property damage (including completed operations).
- (d) Explosion, collapse and underground hazards.
- (e) Personal injury.
- (f) Contractual liability.
- (g) \$5,000,000 general aggregate limit.

3. Commercial Property Insurance – Providing all risk coverage for the leased premises, building, fixtures, equipment and all property constituting a part of the premises. Coverage shall be sufficient to insure One Hundred percent (100%) of the replacement cost.

4. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the TENANT is transporting one or more non-employee passengers in the use of this Lease, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

5. Umbrella Liability Insurance - An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

C. If TENANT performs any construction of the Premises on behalf of the COUNTY, TENANT shall also procure and maintain coverages as follows:

1. For construction contracts for projects over One Million Dollars (\$1,000,000) and less than Three Million Dollars (\$3,000,000) require limits of not less than Three Million Dollars in General Liability and Auto Liability coverage.

2. For construction contracts for projects over Three Million Dollars (\$3,000,000) and less than Five Million Dollars (\$5,000,000) require limits of not less than Five Million Dollars (\$5,000,000) in General Liability and Auto Liability coverage.

3. For construction contracts for projects over Five Million Dollars (\$5,000,000) and less than Ten Million Dollars (\$10,000,000) require limits of not less than Ten Million Dollars (10,000,000) in General Liability and Auto Liability coverage.

4. Subcontractor Insurance Requirements. The TENANT agrees to require all parties or subcontractors, including architects or others it hires or contracts with related to the performance of this contract to provide insurance covering the contracted operation with the same requirements in this Paragraph 21 (including, but not limited to, waiver of subrogation rights) and naming the COUNTY as an additional insured. The TENANT agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required here.

5. Course of Construction/Installation (Builder's Risk): Property insurance providing all risk, including theft coverage for all property and materials to be used on the project. The insurance policy shall not have any coinsurance penalty.

D. Additional Insured – All policies, except for the Workers' Compensation, shall contain endorsements naming the COUNTY and their officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the use under this Lease hereunder. The additional insured endorsements shall not limit the scope of coverage for the COUNTY to vicarious liability but shall allow coverage for the COUNTY to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

E. Waiver of Subrogation Rights – The TENANT shall require the carriers of required coverages to waive all rights of subrogation against the COUNTY, their officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the TENANT and TENANT's employees or agents from waiving the right of subrogation prior to a loss or claim. The TENANT hereby waives all rights of subrogation against the COUNTY.

F. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the COUNTY.

G. Severability of Interests – The TENANT agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross-liability exclusions that preclude coverage for suits between the TENANT and the COUNTY or between the COUNTY and any other insured or additional insured under the policy.

H. Proof of Coverage – The TENANT shall furnish Certificates of Insurance to the San Bernardino Real Estate Services Department (RESA) administering the Lease evidencing the insurance coverage, including endorsements, as required, prior to the commencement date of this Lease, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to RESA, and TENANT

shall maintain such insurance from the time TENANT commences use under the Lease hereunder until the end of the period of the Lease. Within fifteen (15) days of the commencement of this Lease, the TENANT shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

I. Acceptability of Insurance Carrier – Unless otherwise approved by the COUNTY Department of Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum “Best” Insurance Guide rating of “A- VII”.

J. Insurance Review – Insurance requirements are subject to periodic review by the COUNTY. The COUNTY’s Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever the COUNTY’s Department of Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the COUNTY. In addition, the COUNTY’s Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the COUNTY, inflation, or any other item reasonably related to the COUNTY’s risk.

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

Any failure, actual or alleged, on the part of RESD or 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 RESD or the COUNTY.

K. Failure to Procure Insurance – All insurance required must be maintained in force at all times by TENANT. Failure to maintain said insurance, due to expiration, cancellation, etc., shall be cause for the COUNTY to give notice to immediately suspend all TENANT’s business activities on the Premises. Failure to reinstate said insurance within the (10) days of notice to do so shall be cause for termination and for forfeiture of this Lease, and/or COUNTY, at its discretion, may procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by COUNTY shall be repaid by TENANT to COUNTY upon demand but only for the pro rata period of non-compliance.

L. COUNTY shall have no liability for any premiums charged for such coverage(s). The inclusion of COUNTY as additional named insured is not intended to and shall not make a partner or joint venturer with TENANT in TENANT’s operations.

M. The TENANT agrees to require all parties or subcontractors, or others it hires or contracts with related to the use of this Lease to provide insurance covering such use with the basic requirements and naming the COUNTY as additional insured. TENANT agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided as required herein.

N. Deductibles and Self-Insured Retention – Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to COUNTY’s Risk Management.

22. **MAJOR DESTRUCTION OF PREMISES:** Should 75% of the Premises and TENANT’s personal property or improvements thereon be destroyed by fire, earthquake, or acts of God so that the Premises cannot reasonably be utilized for TENANT’s intended purpose, this Lease, at the option of either party, may be terminated. In the event of termination due to major destruction through no-fault or negligence of TENANT, COUNTY will prorate Rents paid by TENANT and refund that portion of prepaid Rents which would be applicable to the post-termination period. In the event of termination due to major destruction, COUNTY will refund the

unused balance of the security deposit referred to in Paragraph 6. SECURITY DEPOSIT, of this Lease. It is expressly agreed by the parties that any destruction which shall prevent safe living conditions for humans on the Premises per applicable laws shall be deemed major destruction within the context and meaning of this paragraph.

23. **COUNTY'S ACCESS TO PREMISES:** COUNTY and its authorized representatives shall have the right to enter the Premises upon prior notice to TENANT and outside of the TENANT's normal operating hours for any of the following purposes, provided that in the event of an emergency, COUNTY may enter at any time and without prior notice:

- A. To determine whether the Premises are in good condition;
- B. To do any necessary maintenance and to make any restoration to the Premises that COUNTY has the right or obligation to perform.
- C. To serve, post, or keep posted any notices required by law;
- D. To post "for sale" signs at any time during the Term, to post "for rent" or "for lease" signs during the last three (3) months of the Term, and;
- E. To show the Premises to prospective tenants during the last three (3) months of the Term and to lenders or prospective buyers at any time during the Term.

COUNTY shall conduct its activities on the Premises as allowed in this paragraph in a manner that will cause the least possible inconvenience, annoyance, or disturbance to TENANT.

24. **NOTICES:** Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally, delivered by reputable overnight courier service, or sent by United States, postage prepaid, first-class mail, certified or registered, return receipt requested. Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other Party shall be addressed to the other party at the address set forth below. Either Party may change its address by notifying the other Party of the change of address. Notice shall be deemed delivered and effective upon the earlier of: (i) actual receipt; or (ii) the date of delivery or refusal of the addressee to accept delivery if such notice is delivered by reputable overnight courier service or sent by postage pre-paid, United States first-class mail, certified or registered, return receipt requested. Any notices received after 5:00 pm local time shall be deemed received on the next business day.

TENANT's address: SJS Enterprises, Inc.
9030 Somerset Blvd.
Bellflower, CA 90706

COUNTY's address: San Bernardino County
Real Estate Services Department
385 North Arrowhead Avenue, Third Floor
San Bernardino, CA 92415

25. **INCORPORATION OF PRIOR AGREEMENT:** This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

26. **WAIVERS:** No waiver by either party of any provisions of this Lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by either party of the same or any other provisions.

27. **AMENDMENTS:** No provision of this Rent may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successor in interest, expressing by its terms an intention to modify this Lease.
28. **SUCCESSORS:** This Lease shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.
29. **SEVERABILITY:** If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Lease is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Lease or any other portion thereof.
30. **TIME OF ESSENCE:** Time is of the essence of each provision of this Lease which specifies a time within which performance is to occur. In the absence of any specific time for performance, performance may be made within a reasonable time.
31. **QUIET ENJOYMENT:** Subject to the provisions of this Lease and conditioned upon performance of all the provisions to be performed by TENANT hereunder, COUNTY shall secure to TENANT during the Lease Term the quiet and peaceful possession of the Premises and all right and privilege appertaining thereto.
32. **PROVISIONS ARE COVENANTS AND CONDITIONS:** All provisions, whether covenants or conditions, on the part of either party shall be deemed to be both covenants and conditions.
33. **CONSENT:** Whenever consent or approval of either party is required that party shall not unreasonably withhold or delay such consent or approval.
34. **EXHIBITS:** All exhibits referred to are attached to this Lease and incorporated by reference.
35. **LAW:** This Lease shall be construed and interpreted in accordance with the laws of the State of California.
36. **ATTORNEYS' FEES AND COSTS:** If any legal action is instituted to enforce or declare any party's rights hereunder, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third-party legal action against a party hereto and payable under **Paragraph 20, INDEMNIFICATION**.
37. **VENUE:** The parties acknowledge and agree that this Lease was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Lease will be the Superior Court of California, San Bernardino County. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this Lease is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County.
38. **CAPTIONS, TABLE OF CONTENTS AND COVER PAGE:** The paragraph captions, table of contents and the cover page of this Lease shall have no effect on its interpretations.
39. **SURVIVAL:** The obligations of the parties which, by their nature, continue beyond the Term of this Lease, will survive the termination of this Lease.
40. **BROKER'S COMMISSIONS:** TENANT is solely responsible for the payment of any commissions to any broker who has negotiated or otherwise provided services in connection with this Lease.

41. **ESTOPPEL CERTIFICATES:** Each party within thirty (30) days after notice from the other party, shall execute and deliver to other party, in recordable form, a certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified, and stating the modifications. The certificate also shall state the amount of minimum monthly Rents, the dates to which the Rents has been paid in advance, the amount of any security deposit or prepaid Rents, and that there are no uncured defaults or specifying in reasonable detail the nature of any uncured default claimed. Failure to deliver the certificate within thirty (30) days shall be conclusive upon the party requesting the certificate and any successor to the party requesting the certificate, that this Lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate, and that there are no uncured defaults on the part of the party requesting the certificate. The estoppel certificate shall be in the form provided by San Bernardino County.

42. **ASSIGNMENT AND SUBLETTING:** TENANT may assign the Lease, sublet all and any portion of the Premises, or hypothecate its interest in this Lease (each a "Transfer") with COUNTY's prior written consent, which consent shall not be unreasonably withheld. In the event the TENANT proposes a Transfer, TENANT shall first submit the following documents to the COUNTY for review regarding the proposed transferee: financial documentation, certificates, permits and description of experience with a three-year history of qualifications and a list of five references related to the respective Permitted Uses, and any other documentation reasonably requested by COUNTY. For purposes of this paragraph, any change in the ownership interest of TENANT shall be deemed an assignment. Notwithstanding the requirement for COUNTY's consent set forth in this Paragraph 42, a Transfer whereby TENANT assigns the Lease to an entity that is owned 51% or more by Giovanni D'Egidio shall not be considered an assignment subject to approval by the COUNTY, provided that TENANT shall give the COUNTY not less than 30 days written notice prior to the effective date of such assignment.

43. **TERMINATION:** Notwithstanding anything to the contrary in the Lease, in the event that, at any time after the initial twenty-four (24) months of the term of the Lease and continuing during the remaining term of the Lease, including any extensions thereof, OGALS notifies the COUNTY that the respective Permitted Uses of the Premises violate the COUNTY's land plan for the Premises for compliance with Senate Bill 1124 (2010), the California Wildlife, Coastal and Parkland Conservation Act of 1988 (Proposition 70), or any laws, restrictions or codes, current or in the future, COUNTY shall have the right to terminate the Lease at any time thereafter by providing TENANT with not less than twelve (12) months of prior written notice (or such shorter period as may be required by OGALS). The RESD Director shall have the right, on behalf of the COUNTY to give notice of termination pursuant to this Paragraph 43. COUNTY shall have the right to receive from TENANT the Rents pursuant to Paragraph 4 which will have been earned under the Lease through the effective termination date.

44. **FORMER COUNTY OFFICIALS:** TENANT agrees to provide or has already provided information on former COUNTY administrative officials (as defined below) who are employed by or represent TENANT. The information provided includes a list of former COUNTY administrative officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of TENANT. For purposes of this provision, "COUNTY administrative official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY Administrative Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Exhibit "B", List of Former County Officials.)

45. **MISREPRESENTATIONS:** If during the course of the administration of this Lease, the COUNTY determines that the TENANT has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the COUNTY, this Lease may be immediately terminated. If this Lease is terminated according to this provision, the COUNTY is entitled to pursue any available legal remedies.

46. **DISCLOSURE:** All information received by the COUNTY from any source concerning this Lease, including the lease itself, may be treated by the COUNTY as public information subject to disclosure under the provisions of the California Public Records Act, Government Code section 6250 et seq. (the "Public Records Act"). TENANT

understands that although all materials received by the COUNTY in connection with this contract are intended for the exclusive use of the COUNTY, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any information which a TENANT has reasonably requested COUNTY to hold in confidence is made to the COUNTY, the COUNTY shall notify the TENANT of the request and shall thereafter disclose the requested information unless the TENANT, within five (5) days of receiving notice of the disclosure request, requests nondisclosure, provides COUNTY a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold the COUNTY harmless in any/all actions brought to require disclosure. TENANT waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event COUNTY fails to notify TENANT of any such disclosure request and/or releases any information concerning the contract received from the TENANT or any other source.

47. **DEFAULT AND RIGHT TO TERMINATE:** All provisions, whether covenants or conditions, on the part of either party, shall be deemed to be both covenants and conditions.

A. Covenants and conditions are material and reasonable. The parties consider each and every term, condition, covenant, and provision of this Lease to be material and reasonable.

B. Except where another time limit is specifically provided, TENANT shall be in default of this Lease if TENANT fails to pay the Rent or any other monetary sums within ten (10) days after the due date or fails or refuses to perform any other material provisions of this Lease and such failure or refusal to perform any other material provision is not cured within thirty (30) days following TENANT's receipt of written notice of default from COUNTY. If the default is of a nature that it cannot reasonably be cured within thirty (30) days, TENANT shall not be in default of this Lease if TENANT commences to cure the default within thirty (30) days, and diligently and in good faith continues to cure the default to completion.

C. In the event of a default of this Lease by TENANT, with or without further notice or demand, and without limiting COUNTY in the exercise of any right or remedy which COUNTY may have by reason of such default, COUNTY may:

1. Exercise its rights set forth in Paragraph 4 for failure to timely pay Rents.

2. If COUNTY at any time, by reason of TENANT's default, pay any sum or does any action that requires the payment of any sum (including charges for COUNTY's employees and equipment), the sum paid by COUNTY shall be due from TENANT to COUNTY within five (5) days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate the COUNTY is permitted by law to charge from the date the sum was paid by COUNTY until COUNTY is reimbursed to TENANT

3. Terminate TENANT's right to possession of the Premises by any lawful means, in which case this Lease and the term hereof shall terminate, and TENANT shall immediately surrender possession of the Premises to COUNTY. In such event COUNTY shall be entitled to recover from TENANT: (i) the worth at the time of the award of the unpaid Rents which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid Rents which would have been earned after termination until the time of award exceeds the amount of such revenue loss that the TENANT proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid Rents for the balance of the Term after the time of award exceeds the amount of such revenue loss that the TENANT proves could be reasonably avoided; and (iv) any other amount necessary to compensate COUNTY for all the detriment proximately caused by the TENANT's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, and that portion of any leasing commission paid by COUNTY in connection with this Lease and applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the

Federal Reserve Bank of San Francisco or the Federal Reserve Bank District in which the Premises are located at the time of award plus one percent (1%). COUNTY's attempt to mitigate damages caused by TENANT's Default or Breach of this Lease shall not waive COUNTY's right to recover damages under this Paragraph. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, COUNTY shall have the right to recover in such proceeding the unpaid Rents and damages as are recoverable therein, or COUNTY may reserve the right to recover all or any part thereof in a separate suit for such Rents and/or damages.

4. Continue the lease and TENANT's right to possession in effect under California Civil Code Section 1951.4 after TENANT's Breach and recover the Rents as it becomes due, provided TENANT has the right to sublet or assign, subject only to reasonable limitations. COUNTY and TENANT agree that the limitations on assignment and subletting in this Lease are reasonable. COUNTY's maintenance of the Premises or efforts to relet the Premises, or the appointment of a receiver to protect the COUNTY's interest under this Lease, shall not constitute a termination of the TENANT'S right to possession.

5. Pursue any other remedy now or hereafter available to COUNTY under the laws or judicial decisions of the State of California.

D. Survival of Indemnity Provisions – The expiration or termination of this Lease and/or the termination of TENANT's right to possession shall not relieve TENANT from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the Term or by reason of TENANT's occupancy of the Premises.

E. TENANT's Personal Property – Immediately upon termination of this Lease, TENANT covenants and agrees to remove all of TENANT's personal property, machinery or fixtures from the Premises. If TENANT fails to remove any such personal property, COUNTY may remove such personal property and place the same in storage at the expense of TENANT and without liability to COUNTY for losses. TENANT agrees to pay COUNTY for all expenses incurred by COUNTY in connection with the removal, and storage charges of TENANT's personal property, including attorney's fees and court costs. Alternatively, COUNTY may at its option and on not less than ten (10) days written notice to TENANT sell all or any part of said personal property at public or private sale for such prices as COUNTY may obtain. COUNTY shall apply the proceeds of any such sale to the amounts due from TENANT under this Lease and to any expense incidental to such sale. Any surplus arising from such sale shall be refunded to TENANT.

F. No Waiver by County – COUNTY's receipt of any Rents or of any other sum of money paid by TENANT after the termination and forfeiture of this Lease, or after the giving by COUNTY of any notice to affect such termination, shall not waive the Default, reinstate, continue or extend the Term of this Lease, or destroy or impair the efficacy of COUNTY's notice of termination, unless otherwise agreed in writing by COUNTY. COUNTY's acceptance of the keys to the Premises or any other act of the COUNTY or its agents or employees during the Term of this Lease shall not be deemed to be an acceptance or a surrender of the Premises, unless otherwise agreed in writing by COUNTY.

48. **INTERPRETATIONS:** As this Lease was jointly prepared by both parties, the language in all parts of this Lease shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

49. **HOLDOVER:** In the event the TENANT shall hold over and continue to occupy the Premises after the expiration of the Term with the express written consent of the COUNTY, such occupancy shall be on a month-to-month basis on the same terms and conditions as existed and prevailed at the time of the expiration of the term of this Lease, provided that the minimum rent shall continue escalate by four percent (4%) on the commencement of the holdover period and on each anniversary thereafter if the holdover continues for more than twelve (12) months. Notwithstanding anything to the contrary in this Lease, either party shall have the right to terminate the Lease with not less than thirty (30) days prior written notice to the other party during any month-to-month holdover period.

50. **ENTIRE AGREEMENT:** This Lease, including recitals, constitutes a single, integrated contract, expressing the entire agreement and understanding of the parties concerning the subject matter of this agreement, and this Lease supersedes and replaces all prior understandings, negotiations, proposed agreements and agreements, whether oral or written, express or implied.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

51. **AUTHORIZED SIGNATORS:** Both parties to this Lease represent that the signators executing this document are fully authorized to enter into this agreement.

END OF LEASE TERMS.

SAN BERNARDINO COUNTY

By: 
Dawn Rowe, Chair
Board of Supervisors

Date: MAR 28 2023

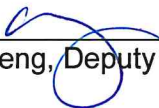
SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT
HAS BEEN DELIVERED TO THE
CHAIR OF THE BOARD

Lynna Monell, Clerk of the Board of Supervisors

By:  Deputy
Date: MAR 28 2023

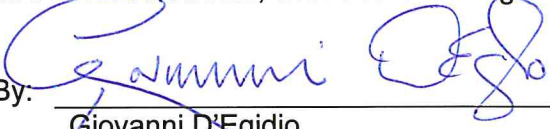
Approved as to Legal Form:

TOM BUNTON, County Counsel
San Bernardino County, California

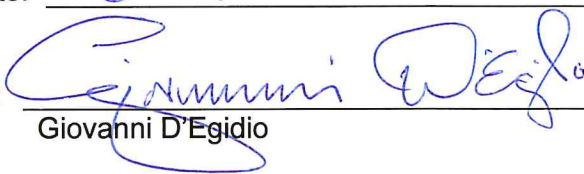
By: 
Agnes Cheng, Deputy County Counsel

Date: 3/8/2023

SJS ENTERPRISES, INC. dba SC Village

By: 
Giovanni D'Egidio
Title: President

Date: 3-6-2023

By: 
Giovanni D'Egidio
Title: Secretary

Date: 3-6-2023

EXHIBIT "A"
Premises Description

THAT PORTION OF THAT CERTAIN GRANT DEED AS EVIDENCED BY DOCUMENT RECORDED MARCH 17, 2014 AS DOCUMENT NUMBER 2014-0095997 OF OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, TOGETHER WITH THAT PORTION OF THAT CERTAIN GRANT DEED AS EVIDENCED BY DOCUMENT RECORDED SEPTEMBER 23, 1988 AS DOCUMENT NUMBER 1988-0319826 OF OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA AS SHOWN ON THE MAP OF THAT PORTION OF THE RANCHO EL RINCON, AS PER RECORD OF SURVEY MAP 17-0141 RECORDED IN BOOK 163 OF RECORDS OF SURVEY AT PAGES 94 THROUGH 96, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA. THOSE PORTIONS DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE AVERAGE LINE OF A FENCE RUNNING APPROXIMATELY NORTH AND SOUTH AND ADOPTED AS THE EAST LINE OF SAID RANCHO, WITH THE CENTER LINE OF MCCARTY ROAD, SAID INTERSECTION WHICH IS ADOPTED TO THE SOUTHWEST CORNER OF GOVERNMENT LOT 8 OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, DISTANT ALONG SAID CENTER LINE NORTH 89° 16' 43" EAST (SOUTH 89° 43' 37" EAST AS SHOWN ON SAID RECORD OF SURVEY MAP 17-0141), 1323.72 FEET FROM A 2 INCH IRON PIPE MARKING THE INTERSECTION OF THE CENTER LINES OF SAID MCCARTY ROAD AND HELLMAN AVENUE;

THENCE FROM SAID POINT OF COMMENCEMENT ALONG THE CENTERLINE OF McCARTY ROAD, SOUTH 89°16'43" WEST 333.43 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING ALONG SAID CENTERLINE SOUTH 89°16'43" WEST 1066.72 FEET TO AN ANGLE POINT OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL NO. 2 PER SAID DOCUMENT NUMBER 2014-0095997;

THENCE LEAVING SAID CENTERLINE SOUTH 00°26'37" EAST 419.05 FEET ALONG THE EAST LINE OF SAID PARCEL NO. 2;

THENCE LEAVING SAID EAST LINE NORTH 89°21'00" WEST 109.93

FEET; THENCE SOUTH 30°13'51" WEST 103.70 FEET;

THENCE SOUTH 00°56'12" EAST 236.59 FEET;

THENCE SOUTH 30°01'24" WEST 367.19 FEET;

THENCE SOUTH 47°16'51" WEST 288.61 FEET;

THENCE NORTH 55°16'06" WEST 127.84 FEET;

THENCE NORTH 0°54'08" WEST 327.48 FEET;

THENCE NORTH 88°15'51" WEST 63.84 FEET;

THENCE NORTH 23°33'44" WEST 149.64 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL NO. 2;

THENCE NORTH 38°48'37" EAST ALONG SAID WEST LINE 129.25 FEET;

THENCE CONTINUING ALONG SAID WEST LINE NORTH 44°39'22" WEST 108.29 FEET; THENCE CONTINUING ALONG SAID WEST LINE NORTH 61°39'19" WEST 248.08 FEET;

THENCE LEAVING SAID WEST LINE NORTH 22°54'26" WEST 125.98 FEET

THENCE NORTH 12°20'16" EAST 301.29 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL OF LAND DESCRIBED IN SAID DOCUMENT NUMBER 1988-0319826, SAID POINT ALSO BEING A POINT ON THE SAID CENTERLINE OF McCARTY ROAD;

THENCE LEAVING SOUTH LINE AND SAID CENTERLINE NORTH 12°20'16" EAST 92.86 FEET;

THENCE NORTH 79°01'01" EAST 512.82 FEET TO A POINT ON THE WEST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL NO. 1 PER SAID DOCUMENT NUMBER 2014-0095997;

THENCE NORTH 25°00'38" EAST ALONG SAID WEST LINE 159.53

FEET; THENCE LEAVING SAID WEST LINE NORTH 77°44'02" EAST

131.72 FEET; THENCE NORTH 19°17'24" EAST 177.55 FEET;

THENCE NORTH 32°17'38" EAST 246.26 FEET;

THENCE NORTH 88°17'50" EAST 152.70 FEET;

THENCE NORTH 03°42'23" WEST 214.17 FEET;

THENCE NORTH 85°18'01" EAST 538.32 FEET;

THENCE SOUTH 32°10'16" EAST 151.08 FEET;

THENCE SOUTH 88°10'36" EAST 238.05 FEET;

THENCE NORTH 42°36'21" EAST 110.24 FEET;

THENCE NORTH 05°03'54" EAST 63.23 FEET;

THENCE NORTH 39°26'38" EAST 50.00 FEET;

THENCE NORTH 65°08'36" EAST 64.64 FEET;

THENCE SOUTH 30°47'02" EAST 41.60 FEET;

THENCE SOUTH 02°35'40" WEST 111.45 FEET;

THENCE SOUTH 02°35'40" WEST 606.70 FEET;

THENCE SOUTH 02°35'40" WEST 294.92 FEET TO THE **POINT OF**

BEGINNING; CONTAINING 50 ACRES MORE OR LESS

APN: 1057-221-18 (PTN), 1057-221-19 (PTN), & 1057-221-21 (PTN)

AND:

THAT PORTION OF THAT CERTAIN GRANT DEED AS EVIDENCED BY DOCUMENT RECORDED MARCH 17, 2014 AS DOCUMENT NUMBER 2014-0095997 OF OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, AS SHOWN ON THE MAP OF THAT PORTION OF THE RANCHO EL RINCON, AS PER RECORD OF SURVEY MAP 17-0141 RECORDED IN BOOK 163 OF RECORDS OF SURVEY AT PAGES 94 THROUGH 96, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA. THOSE PORTIONS DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE AVERAGE LINE OF A FENCE RUNNING APPROXIMATELY NORTH AND SOUTH AND ADOPTED AS THE EAST LINE OF SAID RANCHO, WITH THE CENTER LINE OF MCCARTY ROAD, SAID INTERSECTION WHICH IS ADOPTED TO THE SOUTHWEST CORNER OF GOVERNMENT LOT 8 OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, DISTANT ALONG SAID CENTER LINE NORTH $89^{\circ} 16' 43''$ EAST (SOUTH $89^{\circ} 43' 37''$ EAST AS SHOWN ON SAID RECORD OF SURVEY MAP 17-0141), 1323.72 FEET FROM A 2 INCH IRON PIPE MARKING THE INTERSECTION OF THE CENTER LINES OF SAID MCCARTY ROAD AND HELLMAN AVENUE;

THENCE FROM SAID POINT OF COMMENCEMENT ALONG THE CENTERLINE OF McCARTY ROAD, SOUTH $89^{\circ} 16' 43''$ WEST 333.43 FEET;

THENCE LAVING SAID CENTERLINE NORTH $02^{\circ} 35' 40''$ EAST 294.92 FEET TO THE **TRUE POINT OF BEGINNING**;

THENCE NORTH $02^{\circ} 35' 40''$ EAST 606.70 FEET;

THENCE NORTH $58^{\circ} 04' 31''$ EAST 274.46 FEET;

THENCE SOUTH $00^{\circ} 12' 24''$ EAST 576.80 FEET;

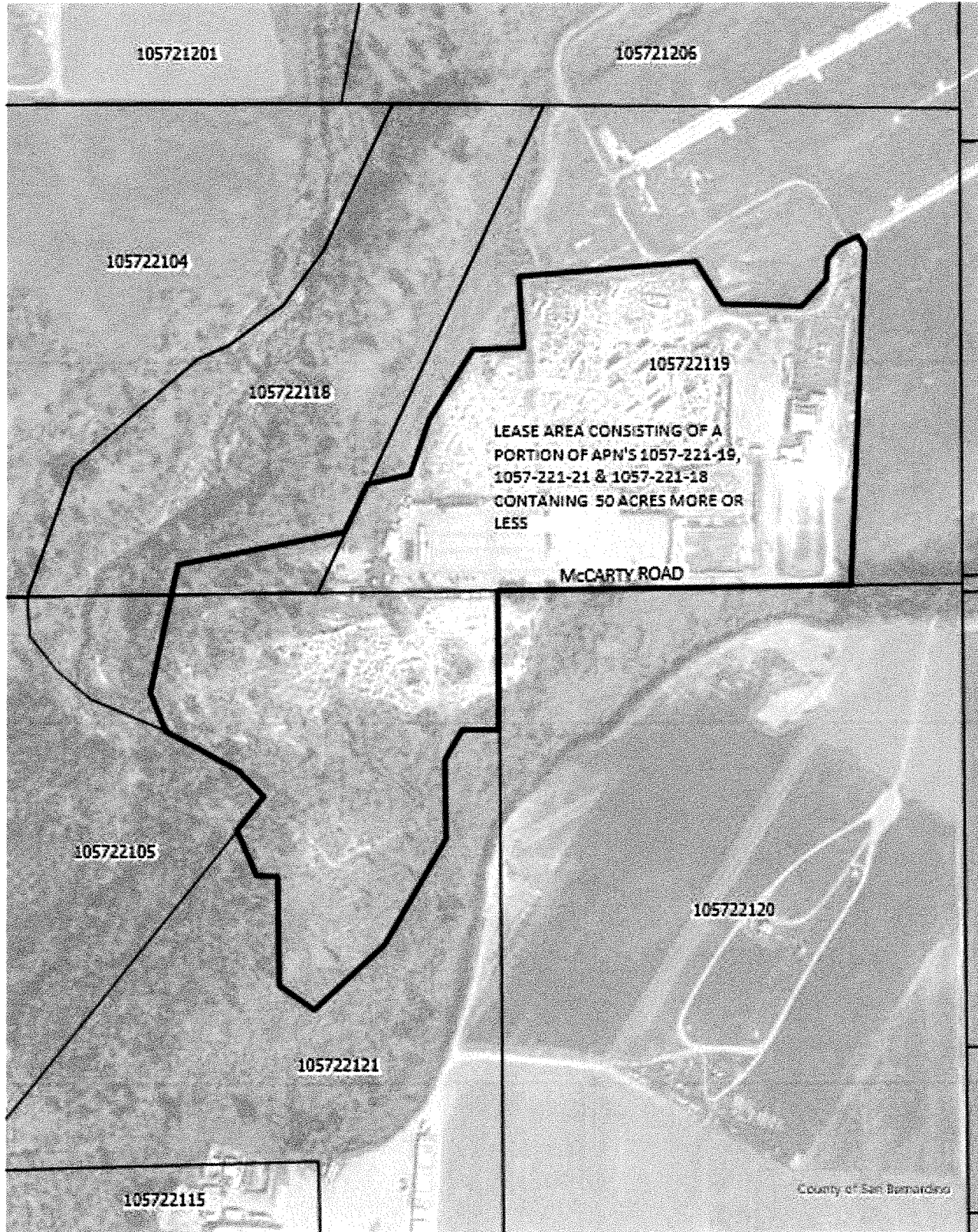
THENCE SOUTH $56^{\circ} 23' 51''$ WEST 315.15 FEET TO THE **POINT OF BEGINNING**;

CONTAINING 4 ACRES MORE OR LESS

APN: 1057-221-19 (PTN)

EXHIBIT A-1"
Premises Depiction

APN: 1057-221-18 (PTN), 1057-221-19 (PTN), & 1057-221-21 (PTN)



AND:

APN: 1057-221-19 (PTN)

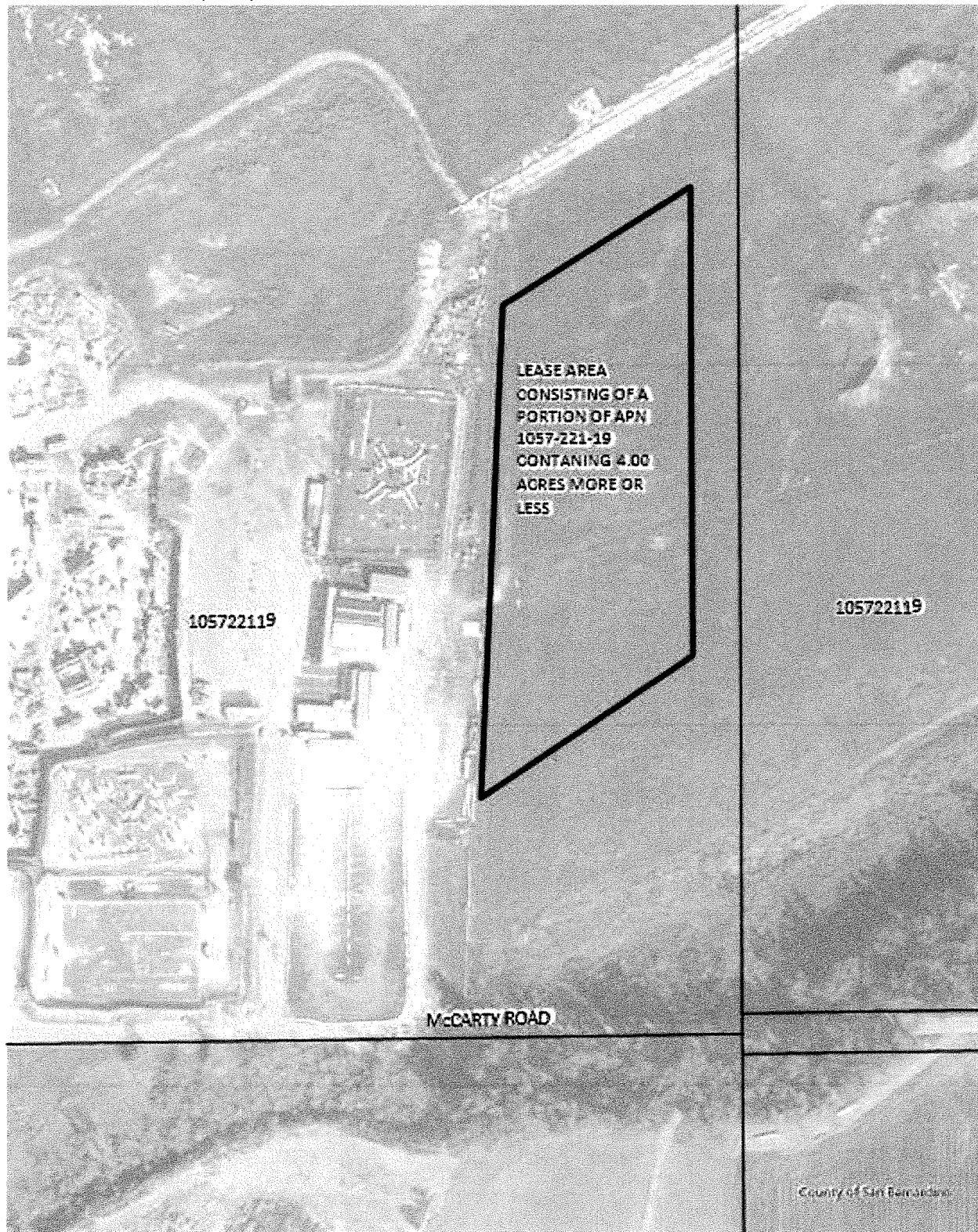


EXHIBIT "B"

LIST OF FORMER COUNTY OFFICIALS

INSTRUCTIONS: List the full name of the former COUNTY Administrative Official, the title/description of the Official's last position with the COUNTY, the date the Official terminated COUNTY employment, the Official's current employment and/or representative capacity with the TENANT, the date the Official entered TENANT's employment and/or representation.

OFFICIAL'S NAME:

REQUIRED INFORMATION