



Contract Number
15-833 A1

SAP Number

BOARD GOVERNED COUNTY SERVICE AREA 70

Department Contract Representative	Terry W. Thompson, Director
Telephone Number	(909) 387-5252
Contractor	Arrowhead Lake Association
Contractor Representative	Bob Mattison, General Manager
Telephone Number	909-377-2595, ext 111
Contract Term	11/3/2015 – 9/2/2025
Original Contract Amount	\$81,072
Amendment Amount	\$227,742
Total Contract Amount	\$308,814
Cost Center	
GRC/PROJ/JOB No.	52003346
Internal Order No.	

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, County Service Area 70 (“DISTRICT”), as licensor, and Arrowhead Lake Association (“LICENSEE”), as licensee, have previously entered into a License Agreement, Contract No. 15-833 dated November 3, 2015 (the “License”), wherein DISTRICT licensed to LICENSEE certain land, as more specifically described in the License, for a term that expired on November 2, 2018; and has continued on a permitted month-to-month holdover, and,

WHEREAS, DISTRICT and LICENSEE now desire to amend the License to correct an error in the identification of Premises, reflect a twenty-two (22) month holdover period with DISTRICT’S express consent for the period from November 3, 2018 through September 2, 2020, extend, following said holdover, the term of the License from September 3, 2020 through September 2, 2025, add one five-year option to extend the term adjust the fee schedule, replace Exhibit “3” to the License, and amend certain other terms of the License as more specifically as set forth in this amendment (“First Amendment”); and,

NOW, THEREFORE, in consideration of the mutual covenants and conditions, the parties hereto agree that the License is amended as follows:

1. The parties acknowledge and agree that, due to an inadvertent error, the Premises was incorrectly stated as a portion of Assessor’s Parcel Number (APN) 0330-011-43 in certain paragraphs of the initial License, but should have been stated as a portion of APN 0330-011-46. Therefore, the APN set forth in the defined term “Premises” on the cover page, in the first recital paragraph, in Paragraph 7.B, and in Paragraph 20 of the initial License are hereby deleted and replaced with APN 0330-011-46.

2. Pursuant to **Paragraph 11, HOLDING OVER**, LICENSEE shall, with DISTRICT's express consent granted herein, use the Premises on a month-to-month holdover basis for the period from November 3, 2018 through September 2, 2020 at a monthly fee of \$2,329.91 per month.

3. Effective September 3, 2020, DELETE in its entirety the existing **Paragraph 1, USE AND COMPENSATION**, and SUBSTITUTE therefore the following as a new **Paragraph 1, USE AND COMPENSATION**:

1. **USE AND COMPENSATION:**

A. The DISTRICT grants a license, including ingress and egress, for the Premises to LICENSEE for the purpose of storage of dredging materials (such as earth, decomposed granite and sand) and K-rail barricades. This License and the rights herein granted to LICENSEE shall be subject to the paramount rights of the DISTRICT, including, but not limited to, the right to cross over and/or occupy the Premises with any and all equipment necessary in the preservation of the real property without liability for any damages to LICENSEE's Facilities. LICENSEE's use of the Premises is further subject to conditions of operation as set forth in Exhibit "3", attached hereto and made a part hereof.

B. In consideration for this License and the rights herein granted to LICENSEE, LICENSEE agrees to pay to the DISTRICT a monthly fee of \$2,770.00, payable in advance on the first of each month for the first year during the First Extended Term, subject to annual increases, as more specifically set forth below.

License Year	Total Monthly Fee
September 3, 2020 thru September 2, 2021	\$2,770.00
September 3, 2021 thru September 2, 2022	\$2,853.00
September 3, 2022 thru September 2, 2023	\$2,939.00
September 3, 2023 thru September 2, 2024	\$3,027.00
September 3, 2024 thru September 2, 2025	\$3,118.00

C. If any monthly fee or other amounts are not paid when due and payable, LICENSEE shall pay to DISTRICT an additional amount of Fifty and 00/100 Dollars (\$50.00) for each overdue monthly fee or other amount as an administrative processing charge. The parties agree that this administrative charge represents a fair and reasonable estimate of the costs that DISTRICT will incur by reason of late payment by LICENSEE. Acceptance of any administrative charge shall not constitute a waiver of LICENSEE's default with respect to the overdue fee or amount or prevent DISTRICT from exercising any of the other rights and remedies available to DISTRICT. Fees and other amounts not paid when due shall bear simple interest from the date due at the rate of one and one-half percent (1½%) per month until paid in full.

4. Effective September 3, 2020, DELETE in its entirety the existing **Paragraph 2, TERM**, and SUBSTITUTE therefore the following as a new **Paragraph 2, TERM**:

2. **TERM:**

A. The term of the License between DISTRICT and LICENSEE for the Premises is extended for five (5) years, commencing from September 3, 2020 and expiring on September 2, 2025, unless earlier terminated (the "First Extended Term").

B. DISTRICT gives LICENSEE the option to extend the term of the License on the same provisions and conditions, except for the monthly fee, which shall be adjusted by good faith negotiation of the Parties to the fair market monthly rental rate then prevailing based on the monthly rental rent ("FMV Rent") of comparable leased premises in the County of San Bernardino, ("Second Extended Term") following the

expiration of the First Extended term, provided that at the time of exercise of the said option, LICENSEE is not in default with respect to any of the terms, covenants or conditions to be observed or performed by LICENSEE hereunder and LICENSEE gives written notice of its exercise of the option to COUNTY at least one (1) year, but not more than eighteen (18) months, prior to the expiration of the preceding term. If the Parties have been unable to agree on the FMV Rent for the Premises within five (5) months of LICENSEE's exercise of its option, said FMV Rent shall be determined through arbitration conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. During the period between the expiration of the then current Lease Term and the determination of the Monthly Rent for the Premises by arbitration, LICENSEE shall continue to pay the Monthly Rent for the Premises in the amount due for the month immediately preceding expiration of the then current Lease Term, but once the FMV Rent is determined, such rate shall be retroactive to the Second Extended Term. If the FMV Rent for the Premises is determined by arbitration and COUNTY does not, for any reason, agree with such determination, COUNTY shall have the right to terminate the License by providing LICENSEE with written notice not later than thirty (30) days after COUNTY's receipt of the arbitration-determined FMV Rent. In the event COUNTY does not so terminate the Lease, LICENSEE shall commence paying the arbitration-determined FMV Rent for the month immediately following receipt of said rate determination along with one lump-sum pay of any deficiencies in Monthly Rent between the amount paid prior to the arbitration-determined rent and the arbitration-determined rent.

5. Effective September 3, 2020, DELETE in its entirety the existing **Exhibit "3"** referenced in **Paragraph 6, MAINTENANCE/REPAIR**, and SUBSTITUTE therefore a new **Exhibit "3"** for reference in **Paragraph 6, MAINTENANCE/REPAIR**, which is attached to this First Amendment and incorporated herein by reference.

6. Effective September 3, 2020, DELETE in its entirety the existing **Paragraph 11, HOLDING OVER**, and SUBSTITUTE therefore the following as a new **Paragraph 11, HOLDING OVER**:

11. **HOLDING OVER:** If the LICENSEE continues using the Premises after the expiration of the then current term or after any earlier termination of this License, and if said use is with the express written consent of the DISTRICT, then LICENSEE shall be deemed to be on a month-to-month term subject to all the provisions of this License, except that the monthly fee shall be an amount equal to one hundred fifty percent (150%) over the monthly fee immediately in effect prior to the initiation of the month-to-month term. Either party shall have the right to terminate the License on not less than thirty (30) days prior written notice during such holdover. The DISTRICT's Director of Real Estate Services shall have the right to give notice of such termination on behalf of DISTRICT.

7. Effective September 3, 2020, DELETE in its entirety **Paragraph 30, NOTICES**, and SUBSTITUTE therefore the following as a new **Paragraph 30, NOTICES**:

30. **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 or sent by United States mail, postage prepaid, 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. Notices 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 sent by or United States mail, postage prepaid, certified or registered, return receipt requested.

DISTRICT's address:

County Service Area 70
Special Districts Department
222 W. Hospitality Lane, 2nd Floor
San Bernardino, CA 92415-0450

With a copy to:

County of San Bernardino
Real Estate Services Department
385 North Arrowhead Avenue
San Bernardino, CA 92415-0180

LICENSEE's address: Arrowhead Lake Association
P. O. Box 1119, 870 N. Highway 173
Lake Arrowhead, CA. 92352

8. Effective September 3, 2020, DELETE in its entirety the existing **Paragraph 42, VENUE** , and SUBSTITUTE therefore the following as a new **Paragraph 42, VENUE**:

42. **VENUE**: The parties acknowledge and agree that this License 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 License will be the Superior Court of California, County of San Bernardino. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning this License, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino. The License shall be construed and interpreted in accordance with the laws of the State of California.

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9. All other provisions and terms of the License shall remain the same and are hereby incorporated by reference. In the event of conflict between the License and this First Amendment, the provisions and terms of this First Amendment shall control.

END OF THE FIRST AMENDMENT.

COUNTY SERVICE AREA 70

ARROWHEAD LAKE ASSOCIATION

(Print or type name of corporation, company, contractor, etc.)

▶

Curt Hagman, Chairman, Board of Supervisors

By ▶ _____
(Authorized signature - sign in blue ink)

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Name Bob Mattison
(Print or type name of person signing contract)

Lynna Monell
Clerk of the Board of Supervisors
of the County of San Bernardino

Title General Manager
(Print or Type)

By _____
Deputy

Dated: _____

Address P. O. Box 1119, 870 N. Highway 173
Lake Arrowhead, CA. 92352

FOR COUNTY USE ONLY

Approved as to Legal Form
▶
Agnes Cheng, Deputy County Counsel
Date _____

Reviewed for Contract Compliance
▶

Date _____

Reviewed/Approved by Department
▶
Jim Miller, Real Property Manager, RESD
Date _____

EXHIBIT "3"

CONDITIONS OF OPERATIONS

1. All stockpiling operations will cease at least one hour prior to dusk, and all machinery shall be cleared of brush, and debris.
2. Operations that require heavy, noisy equipment, such as backhoes, loaders, etc. can only operate after 8:00 A. M.
3. No nighttime operations, except for office work or work that does not require out-of- doors work, will be permitted, unless on an emergency basis to be approved by the Fire Marshal and Special Districts Regional Manager.
4. No permanent site lighting. Temporary lighting can be used on a limited basis based on approval of emergency nighttime operations as stated in item three (3) of this Exhibit "3".
5. Welding and machine repair is to be conducted in the early morning hours.
6. Site shall be accessible to the County Fire Marshal and other regulatory agencies at all times.
7. Reserved
8. No on-site, outside storage or handling of flammable liquids, hazardous materials, oils lubricants, or antifreeze.
9. Maintain a 25-foot-wide clearance on each side of the centerline of the common access road within each area.
10. Provide a 2,000-gallon portable, stationary, water tank on site, per County Fire requirements.
11. All storage of wood and other combustible materials shall conform to the Uniform Fire Code, Article 30, and shall adhere to the following:
 - a. The distance between piles of combustible material storage shall be 30' at the base.
 - b. Combustible material storage shall not exceed twenty (20') feet in height from the bottom of the combustible materials.
 - c. Combustible material storage shall be no closer than ten (10') feet to any fence or other obstruction.
 - d. Clear/unobstructed access shall be maintained between any combustible material and water tank or water source.
 - e. A fire department Knox entry lock system shall be installed on all entrance gates.
 - f. A property identifier shall be posted and clearly visible from the access road displayed with reflective 6" or higher lettering.
12. Licensee shall ascertain and comply with the requirements of all State, County and Local agencies as applicable to the project area. They include, but are not limited to: County Department of Public Health-Environmental Health Services, Land Use Services-Building and Safety/Code Enforcement, Public Works, Flood Control District, and Fire, as well as State agencies that include the State Fire Marshal, Regional Water Quality Control, and South Coast Air Quality Management District.

13. All Landscaping, fuel modification measures, fencing and structures shall be maintained regularly by the applicant, so that all facets of the development are kept in continual good repair. All trash and storage areas, loading areas, mechanical equipment shall be screened from public view, to the extent feasible. The property shall be maintained so that it is not dangerous to the health and welfare of the surrounding properties. Fuel modification shall be performed on an as-needed basis, as determined by the Fire Marshal.

14. If any County enforcement activities are required to enforce compliance with the conditions of operation, the operator shall be charged for such enforcement activities in accordance with the San Bernardino County Code Schedule of Fees.

15. The on-site sanitary facilities shall be maintained so as not to create a public nuisance and shall be serviced by a qualified operator. For information call DEHS/Wastewater Section.

16. All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that visual, noise, or other impacts and environmental health nuisances are minimized and complies with San Bernardino County Code Chapter 8, Section 33.081 et. seq. For information, call DEHS/Local Enforcement Agency.

17. All refuse containing garbage shall be removed from the premises at least two times per week to an approved solid waste facility, in conformance with San Bernardino County Code Chapter 8, Section 33.081 et. seq.

18. The operator shall be responsible for maintaining access to the site, including but not limited to any grading or snow removal that may be required. Operators shall maintain clear access throughout the site with appropriate turn-around space, as required by the Fire Marshal.