

## **GROUND LEASE**

THIS GROUND LEASE ("Lease") dated, as of \_\_\_\_\_, 2022 ("Effective Date"), is entered into by and between the County of San Mateo, a political subdivision of the State of California, ("Landlord" or "County") and CuriOdyssey, a California non-profit Corporation, f/k/a Coyote Point Museum Association ("Tenant") (collectively, the "Parties", each individually a "Party").

A. Landlord is the owner of certain real property located in the City of San Mateo, County of San Mateo, California commonly known as Coyote Point Recreation Area, located at 1701 Coyote Point Drive, in San Mateo County, California ("County Property").

B. Landlord and Tenant have entered into and, as of the Effective Date of this Lease, continue to operate under a certain Coyote Point Museum Agreement dated as of June 6, 1978 (as amended, the "Existing Lease"); which expires on May 6, 2024, whereby Tenant currently leases a portion of the County Property commonly known as 1651 Coyote Point Drive, generally consisting of one (1) building ("Building") that is owned by the County and within which Tenant operates a regionally focused science museum, together with Tenant-owned improvements, including a fenced, exterior/outdoor area in which Tenant operates a wildlife center and an inclusive playground, in the areas shown on Exhibit A, attached hereto and incorporated herein by reference (collectively, the "Existing Premises;" with the foregoing improvements referred to collectively as the "Existing Facility").

C. Landlord and Tenant desire to enter into this Ground Lease to (i) afford Tenant a new lease term to allow for the continued operation of the Existing Facility at the Existing Premises, and (ii) provide Tenant with the option to expand the Existing Premises to add additional improvements on the County Property for the expansion of Tenant's facilities, approximately in the areas shown on Exhibit A-1, attached hereto and incorporated herein by reference.

D. On May 24, 2016, the County Board of Supervisors, the Landlord's governing body, adopted that certain Resolution No. 074511, which approved a Ground Lease between the County and Tenant ("2016 Ground Lease"), in recognition of Tenant's intent desire to substantially and significantly improve the Premises and in order to facilitate Tenant's attempt to move forward with its improvement plans, fundraising campaign and entitlement efforts. Since that time, Tenant's plans and needs have evolved and, rather than move forward with implementation of the 2016 Ground Lease, Tenant desires to enter into a new ground lease with terms that better reflect Tenant's needs and Landlord is willing to enter into a new ground lease, as set forth herein.

E. The County Board of Supervisors has determined that (i) it is in the Landlord's interest to enter into this Lease to allow for the continued operation of the Existing Facility at the Premises; (ii) it is in the Landlord's interest to afford Tenant the opportunity to expand the Existing Premises by upgrade or expansion of the Building, addition of new buildings and other improvements and/or related expansion of the Premises area, all subject to the timing and success of Tenant's capital fundraising program, as such improvements by Tenant will afford a public benefit; (iii) as more fully articulated in Exhibit B, attached hereto ("Public Benefits for San Mateo County"), the public benefit of extending the term of the Lease for continued operation of the Existing Facility is expected to be greater than the public benefit which would result from the sale of the Premises leased hereunder and Tenant is willing to continue providing the Public Benefits set forth in Exhibit B; (iv) the foregoing public benefits will be further enhanced if Tenant elects to upgrade the Building and/or expand the Premises area; (v) a reasonable expectation exists that future public need justifies retention of fee ownership of the Premises and (vi) this Lease will not interfere with the use or development of other areas of the County Property.

Now therefore, in consideration of the terms, conditions and covenants herein, and incorporating the foregoing recitals, Landlord and Tenant agree as follows:

## **AGREEMENT**

1. **Lease of Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Premises for the Tenant's Permitted Use, as more particularly described in Section 8 of this Agreement, including, without limitation, the Existing Facility and all other improvements, on-site utility installations, landscaping amenities, fences and other improvements located at the Premises as of the Effective Date, it being agreed that this Lease is effective and shall bind the Parties as of the Effective Date, superseding all terms and conditions of the Existing Lease in their entirety.

2. **Term.** The term of this Lease (as it may be extended pursuant to this Section 2, the "Term") shall begin on the Effective Date and shall continue through 11:59 p.m. on the last day of the month in which the thirtieth (30<sup>th</sup>) anniversary of the Effective Date occurs, unless otherwise terminated or extended under any provision of this Lease. The expiration or sooner termination of the Term shall be referred to as "Lease Termination", and "Term" also shall include any extension of the existing Term of this Lease.

a. **Options to Extend Term.** Tenant shall have the option to extend the initial Term (i) for a period of fifteen (15) years commencing at the expiration of the initial Term; and (ii) if Tenant exercises its option to extend the initial Term, for an additional period of fifteen (15) years at the expiration of the initial extended Term. The manner of Tenant's right to exercise its options to extend the Term is as follows:

i. Tenant may exercise an option to extend the Term (as previously extended, if applicable), only if, at the time of exercise and at commencement date of the applicable extended Term, Tenant is not in default, after notice and the expiration of any applicable cure period, under this Lease.

ii. In order to exercise an option to extend the Term (as previously extended, if applicable), Tenant must deliver to Landlord written notice of exercise to extend not later than the one hundred eightieth (180<sup>th</sup>) day before, and no sooner than the three hundred sixtieth (360<sup>th</sup>) day before, the expiration of the initial Term, or the first extended Term, as the case may be. If Tenant fails to deliver timely notice to Landlord of Tenant's exercise of its option, then the option right (and the right to exercise a successive option) shall automatically expire and be of no further force or effect. If Tenant properly exercises its option to extend the Term, then the Term shall be extended for the described period on all the same terms and conditions as set out in this Lease, except, however, that for the duration of the Lease (as it may be extended) on or before the ten (10) year anniversary of the Effective Date, the Parties shall meet and confer to discuss in good faith the amount of the User Fee to be paid, as more particularly set for in Section 3, below.

3. **User Fee.** As consideration for the use of the Premises, Tenant shall pay the Landlord one percent (1%) of Tenant's annual "earned revenue," which, for purposes of this Lease, shall mean all amounts derived by Tenant from admissions, all authorized Special Events (as defined herein), facility rentals, retail sales, membership fees paid by individuals and families and programs at the Premises, but excluding programs that are offered exclusively in a virtual/online format and remotely (i.e., off of the Premises) ("User Fee"). Notwithstanding the foregoing, Tenant may withhold the User Fee if the Premises is not safely and adequately

accessible for such time that the Premises is not safely and adequately accessible, provided that Tenant shall promptly consult with the Landlord if Tenant asserts that the Premises is not safely and adequately accessible. The User Fee shall be paid to Landlord each Lease Year for the prior Lease Year and such User Fee payments shall be made on or before March 31, immediately after the end of each Lease Year. "Lease Year" means each twelve (12) month period from January to December each year during the Term, provided that during the first and last year of the Term, the Lease Year may be a period that is less than twelve months in length. The first Lease Year shall commence after the certificate of occupancy is issued for the first New Building (or any earlier Major Renovation of the existing Building) ("C of O Date") but in no event later than thirty-six (36) months after the Effective Date and shall end on December 31<sup>st</sup> of that same year. Each subsequent Lease Year shall begin on January 1<sup>st</sup>. The Parties shall meet and confer on or before each 10-year anniversary of the Term Commencement Date to discuss, in good faith, the possibility of adjusting the percentage of "earned revenue" to pay the Landlord for the User Fee, in the event the then earned revenue has materially changed.

a. Annual Reporting; Annual Meeting. On an annual basis, on or before March 31 of each year, the Tenant shall provide an audited financial statement to the Landlord for the previous calendar year ("Income Statement"). The Income Statement will provide both revenue and expenses of the Tenant's operation. Additionally, this income statement shall detail the various revenue sources forming the basis of the User Fee. In addition to the Income Statement, the Tenant will provide an annual usage report listing all events which are not part of Tenant's regular, daily operations at the Premises which are hosted or co-hosted by Tenant or for which third parties pay or otherwise arrange for exclusive use of the Premises or a portion of the Premises for such event, and/or events extending beyond regular Park hours, consistent with Section 8 herein (collectively "Special Events") (type of event and attendance) and the number of visitors to the facility during the period covered by that report. All Special Events shall be consistent with those events authorized by Section 8 of this Lease.

b. Place of Payments. Tenant shall tender the User Fee to Landlord in lawful money of the United States of America at the following address, unless Landlord instructs Tenant in writing to deliver payment to another address, or unless this Lease specifically provides another place for payment:

County of San Mateo  
Parks Department  
455 County Center, 4<sup>th</sup> Floor  
Redwood City, CA 94063

4. Expansion of Existing Premises.

a. Capital Upgrades and Improvements to Premises. Landlord and Tenant acknowledge that Tenant's intent and desire is to construct new capital upgrades and improvements at the Premises, potentially including Major Renovation (defined below) of the Building and/or construction of new buildings (each a "New Building"), and the Parties agree that any and all such improvements are subject to (i) to the timing and success of Tenant's capital fundraising program, and (ii) the scope of

improvements approved by the County. Tenant shall undertake all reasonable efforts, diligently and in good faith, to raise as much additional funding as soon as reasonably possible in order to make additional improvements to the Existing Premises; provided, however, that no delay or failure by Tenant to raise sufficient funds for any such additional improvements or to install any such additional improvements shall constitute a default by Tenant in its obligations hereunder. As used in this Lease, a “Major Renovation” to the Building means any capital upgrades to the Building that (x) expand the square footage of the Building; or (y) increase the water and/or electricity service to the Building; and/or demolition of the Building. Tenant’s construction of any New Buildings and/or Major Renovations, as well as other work in the Building not otherwise excluded under Section 19(c), is subject to the terms and conditions of Article 7 and Section 19(b), below.

b. Expansion of Premises. Landlord agrees that Tenant shall have the option, in Tenant’s sole and absolute discretion, to expand the area of the Existing Premises to include the additional areas shown on Exhibit A-1, attached hereto (the "Additional Premises"; with “Premises” deemed to refer to both the Existing Premises and the Existing Premises expanded to include the Additional Premises, if applicable) for the sole purpose of constructing the new buildings shown in Exhibit A-1 and any additional improvements approved by Landlord, and using the Additional Premises for all of the same purposes as the original Premises. Tenant shall not use the Additional Premises for any other purpose without the prior written consent of the Landlord, which consent may be withheld at the Landlord’s sole discretion. It is anticipated that Tenant will elect to expand the Existing Premises in connection with Tenant’s construction of one or more New Buildings; provided, Tenant is under no obligation to expand the Premises and/or construct New Buildings, regardless of any Major Renovation or expansion of the Building by Tenant, if Tenant determines in its reasonable discretion that its fundraising efforts have not been sufficient to proceed with the planned expansion of the Premises. Tenant may exercise its election to expand the Premises by providing written notice of such election to Landlord, in which Tenant shall specify an effective date for such expansion (the “Premises Expansion Date”), no sooner than 60 days, nor more than 120 days, following Tenant’s notice. Following any such election by Tenant, as of the Premises Expansion Date the Existing Premises shall be expanded to include the Additional Premises and thereafter shall be subject to all of the terms and conditions of this Lease.

5. Lease or Sale of County Property. Landlord may lease or sell all, or a portion of, the County Property, all without any consultation with or liability to Tenant, provided, however, that in the event Landlord leases or sells the Premises to a third party, as a condition to such sale or lease, the new landlord or owner shall assume the terms and conditions of this Lease. In the event that the Landlord closes any or all the County Property, or shall cease to use any or all the County Property as a County park, the Landlord shall continue to allow Tenant access to the Premises throughout the Term and all the terms and conditions of this Lease shall remain in full force and effect.

6. Utilities. Landlord and Tenant acknowledge that, as of the Effective Date, Landlord provides water/sewer and electrical service to the Existing Premises. From and after the earlier of (i) substantial completion of any Major Construction or Major Renovation, or (ii) the third (3<sup>rd</sup>) anniversary of the Effective Date, Tenant shall pay, before delinquency, all charges for water, sewer and electricity, together with gas, garbage, recycling, compost, light, heat or power, telephone or other utility and communication service, and cable used during the Term in, upon or about the Premises by Tenant or any of its contractors, subcontractors, employees, subtenants, licensees, invitees, subtenant or assignees. Tenant shall also obtain, or cause to be obtained, without cost to Landlord, any and all necessary permits, licenses or other authorizations required for the lawful and proper installation and maintenance upon the Major Construction, as defined and described in Section 7, below, of wires, pipes, conduits, tubes and

other equipment and appliances for use in supplying any service to and upon the Major Construction. Tenant shall cause a separate water meter to be installed to service the Premises at Tenant's cost as part of any Major Construction, and as a condition to Tenant's obligation to commence payment for electricity at the Premises Landlord shall install a separate electrical meter at Landlord's cost.

7. **Construction of New Buildings and Major Renovations.** Any construction by Tenant of one or more New Buildings and/or any Major Renovations (collectively "Major Construction") from time to time during the Term shall be subject to the terms and conditions of this Section 7.

a. **Improvement Plans.** Tenant shall submit detailed plans and specifications for any Major Construction ("Improvement Plans") to Landlord for Landlord's approval in its discretion, and the Parties shall cooperate in good faith to resolve Landlord's disapproval of any elements of such plans and specifications. Following Landlord's approval, Tenant may make material changes to the Improvement Plans ("Plan Material Changes") only with the prior written consent of Landlord. As used in this Agreement, the term "Material Change" shall mean: (i) any change in building location or grading plan that is inconsistent with the approved Improvement Plans; (ii) a change in the architectural style or architectural detail of the exterior of the improvements from that described in the Improvement Plans (provided Landlord will not unreasonably withhold its consent to changes in building elevations); (iii) any change in the exterior colors; (iv) any substantial change to the landscape plan; (v) any change in the on-site drainage plan; or (vi) any change that causes any new impact to park facilities or resources, operations, or access. In the event of Plan Material Changes, Tenant shall submit its plans and specifications to Landlord for approval with such approval to be at Landlord's sole discretion.

b. **Construction Schedule.** Tenant agrees to use reasonable efforts to cause any Major Construction to be commenced promptly after issuance of a building permit for such work, and to pursue construction diligently to completion; using reasonable and continuous efforts, subject to Unavoidable Delays, as described in Section 30b.

c. **General Construction Contractor Selection Procedures.** Tenant, in Tenant's sole discretion, shall select the general contractor for any Major Construction ("Contractor"), provided the Contractor (i) has relevant construction experience possessed by a contractor reflecting completion of projects of similar size and complexity; (ii) will comply with State Prevailing Wage Law obligations, as more particularly set forth in Section 7f, below; (iii) reasonably demonstrates the financial ability to undertake the Major Construction; and (iv) has the bond capacity required by this Lease. Tenant shall be required to provide Landlord with the name of Contractor. The Tenant's contract with the Contractor will require that Contractor carry insurance reasonably acceptable to Landlord that names Landlord and its elected Supervisors, officials, employees, and agent as additional insureds, and the Contractor must comply with Landlord's construction insurance requirements, which are set forth in Exhibit C to this Lease, and incorporated herein by reference, prior to the commencement of work on any Major Construction.

d. **General Construction Standards.** Tenant shall require the Contractor working on the Premises, while working at the Premises, to take all reasonably necessary measures to avoid any damage or material disruption or inconvenience to Landlord and all County Property that is not subject to this Lease ("Landlord's Retained Property") caused by such work, and shall require the Contractor to institute an appropriate safety program, subject to the reasonable approval of the Landlord, to assure the safety and convenience of all affected persons and the minimizing of disruption to Parks operations and access by other users. Any and all damage to Landlord's Retained Property resulting from Tenant's construction activities shall be promptly repaired to its prior or better condition by Tenant at Tenant's sole

cost. In addition, Tenant shall pay (or cause to be paid) all costs and expenses associated with Tenant's work and shall indemnify, defend and hold Landlord harmless from all liabilities, damages, losses or claims attributable to any Major Construction, or of any subsequent alterations or improvements on the Premises, as the case may be, and the performance of such Major Construction. Dust, noise and other effects of Tenant's work shall be controlled by Tenant as required by applicable laws so as to minimize deleterious effects associated with any Major Construction and to minimize interference with use of the Park by other users. Tenant shall be required, at Tenant's expense, to obtain any and all air quality and other permits required of Tenant in connection with any Major Construction.

e. Compliance with Construction Documents and Laws. Tenant shall construct or cause to be constructed all Major Construction at the Premises in substantial compliance with the approved Improvement Plans and in full compliance with all applicable local, state and federal laws and regulations having jurisdiction thereof; and Tenant's shall, be responsible to satisfy or to pay the full cost to satisfy any and all legal requirements or conditions of Major Construction relating to or on Landlord's Retained Property; provided, however, that if Tenant determines in reasonable discretion that any such legal requirements or conditions would impose a prohibitive cost, then Tenant may elect to rescind or amend its permit application(s). Tenant shall bear sole responsibility and expense for any changes to the Improvement Plans that are necessary in order to comply with applicable local, state, and federal laws and regulations. Tenant will file for and obtain from the County Planning and Building Department any discretionary permits that may be required and a building permit and shall comply with all inspection requirements imposed by the County Planning and Building Department Director. The Parties agree that County building inspectors shall have access to the work on any Major Construction project for purposes of inspection upon reasonable notice in conformity with the Landlord's standard procedures for inspection of projects of similar scope and scale. The parties will cooperate in completing any General Plan Conformity Review process that may apply to any Major Construction to the extent that it involves a non-party agency (including, for example, the City of San Mateo).

f. Prevailing Wages. Tenant's construction contracts with its Contractor (and all subcontracts) for any Major Construction shall require the Contractor (and all subcontractors) to pay the then general prevailing rate of per diem wages in the locality where said work is being performed, as ascertained by the California Department of Industrial Relations or otherwise agreed by Landlord, for each craft, classification or type of worker employed to perform the work. Moreover, Tenant's Contractors (and subcontractors) shall comply with the provisions of Senate Bill 854 regarding registration with the California Department of Industrial Relations.

g. Delivery of Bonds. Prior to commencement of construction and as a condition to commencing construction, Tenant shall ensure that Tenant's General Contractor delivers to Landlord original payment, performance and completion bonds, naming Landlord as an obligee, as described below.

i. Labor and Materials Payment Bond. A labor and materials payment bond issued by a surety company on the Department of the Treasury's and the California Department of Insurance' s listing of Certified Companies, licensed to do business in California, in an amount not less than one hundred percent (100%) of the total general contract amount for any Major Construction project; which bond by its terms shall remain in full force and effect and which Tenant shall maintain it in full force and effect until the entire cost for such Major Construction shall have been paid in full, the Major Construction is satisfactorily completed in accordance with the provisions of this Lease, all claims for labor, materials, equipment or power have been paid, and all periods during which stop notices or claims of lien(s) of any kind may attach to such Major Construction have expired. It shall be a material breach of

this Lease for Tenant to fail to keep the bond in full force and effect during this period. The bond shall contain provisions including the following: (i) that it shall secure the completion of the proposed construction free from all liens and claims of contractors, subcontractors, mechanics, laborers and material suppliers; and (ii) that the construction work shall be completed by the Contractor, or on its default, the surety.

ii. Performance Bond. A performance bond issued by a surety company on the Department of the Treasury's and the California Department of Insurance's listing of Certified Companies, licensed to do business in California, in the amount not less than one hundred percent (100%) of the amount of the construction contract between Tenant and its Contractor (the "Construction Contract") insuring completion of any Major Construction project, with provision for increases in the bonded amount equal to increases under the Construction Contract resulting from change orders so that the amount of the bond will, at all times, be at least equal to the Construction Contract amount, as increased from time to time. The bond shall contain provisions that the construction work shall be completed by the Contractor, or on its default, the surety. The bond shall be kept in full force and effect until the New Project is satisfactorily completed in accordance with the provisions of this Lease and it shall be a material breach of this Lease for Tenant to fail to keep the bond in full force and effect.

h. Landlord's Cooperation. Landlord shall provide reasonable cooperation to Tenant in Tenant's efforts to obtain all governmental consents, approvals, permits or variances which may be required for the performance of any construction permitted under the terms of this Lease, including Landlord's joinder, at no expense to the County, in any application for any such consent, approval, permit or variance where joinder therein by the owner of the Premises is required by law. The foregoing notwithstanding, in no event shall Landlord be required to join in any application, agree to any condition or sign any document which, in any way, will bind Landlord to perform, or agree not to perform, any act, expend any sums, dedicate any property or otherwise make any commitment with regard to County Property. Nothing contained in this Section or elsewhere in this Lease shall be deemed to limit Landlord's right (to the extent it could do so if it were not the Landlord), acting in its role as a governmental agency, to impose such restrictions or requirements on the issuance of consents, approvals, permits or variances, to make comment on applications and reports or otherwise to exercise its governmental authority.

i. Protection of Landlord. Nothing in this Lease shall be construed as constituting the request of the Landlord, express or implied, for the performance of any labor or the furnishing of any materials or any specific improvements, alterations of or repairs to the Premises or any part thereof for Landlord's account or benefit by any contractor, subcontractor, laborer or materialman. Landlord shall have the right at all reasonable times to post, and keep posted, on the Premises and at Tenant's expense, any notices which Landlord may deem necessary for the protection of Landlord and of the Premises and any Major Construction thereon from mechanics' liens or other claims. Tenant shall give Landlord ten (10) days' prior written notice of the commencement of any work to be done on the Premises to enable Landlord to post such notices. In addition, Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons doing any work or furnishing any materials or supplies to Tenant or any of its contractors or subcontractors in connection with the Premises and the improvements thereon.

j. Mechanics Liens and Pending Court Actions. Tenant shall keep the Premises free and clear of all claims for mechanics' liens and other liens on account of work done for Tenant or persons claiming under it. Tenant agrees to and shall indemnify and save Landlord harmless against liability, loss, damages, costs, attorneys' fees and all other expenses on account of a court action or claims of lien of laborers or material suppliers or others for work performed or materials or supplies furnished to Tenant or

persons claiming under it. In the event any lien is recorded and is not removed or discharged within thirty (30) days, without reference to its validity, Tenant shall, upon demand, furnish the bond described in California Civil Code Section 8424 or Section 9364, as applicable, or any other applicable or successor statute(s), which results in the removal of such lien from the work in progress and/or the Premises.

k. **Notice of Completion.** Promptly upon completion of construction of any Major Construction, Tenant shall file or cause to be filed in the Official Records of the County of San Mateo, a Notice of Completion (the "Notice of Completion").

l. **As Is.** There are no warranties or representations, express or implied, by Landlord to Tenant and Tenant acknowledges that the execution of this Lease is and will be based solely upon Tenant's inspection and investigation of the Premises and Tenant's occupancy of the Premises to date. Tenant acknowledges that Landlord has not made any representations or warranties other than as contained herein as to any matters concerning the Premises. Tenant independently has satisfied itself regarding the suitability of the Premises for Tenant's purposes including the suitability of the following characteristics of the Premises: topography, availability of utilities, general plan designation, zoning, soil, subsoil, presence or absence of fill, presence or absence of hazardous materials, the purposes for which the Premises or any part thereof may be used, drainage, flood zone designation, access to public roads, and applicable environmental laws, rules, or regulations.

m. **As Built Plans.** Within sixty (60) days following the filing of the Notice of Completion, Tenant shall deliver to Landlord three (3) sets of "As Built" drawings and provide an electronic set of "As Built" plans for any Major Construction work.

8. **Permitted Use.**

i. Tenant may use the Premises, including any expanded areas and/or New Buildings, subject to Section 10 below, for the continued operation of its use of the Existing Facility, including, but not limited to science exhibit space, exhibit workshop, learning labs, an outdoor natural play area, inclusive playground facility, field station for observation, concessions as described in the following paragraph, together with animal exhibits and ancillary service facilities, including business offices, as well as use and rental of Premises by Tenant to third parties for (i) an unlimited number of Special Events that have no more than thirty (30) people in attendance and (ii) up to one hundred(100) Special Events that have more than thirty (30) people in attendance each calendar year during the Term of the Agreement (with this amount prorated for portions of a calendar year during the Term of the Agreement)(collectively, the "Permitted Use").

ii. As reflected in Section 3 of this Agreement (and for avoidance of doubt), all nighttime social events that are hosted or co-hosted by Tenant shall be considered Special Events and shall count toward the annual authorized number of Special Events. If, in Landlord's reasonable judgment, a Special Event has created or is reasonably anticipated to create a disruption to park operation or park condition, Landlord and Tenant shall meet and confer regarding the details of the Special Event. For Special Events that have already occurred that have, in the reasonable judgment of Landlord caused substantial disruption to the operation or condition of the park, Landlord may suspend future Special Events of a materially similar nature until the Parties have agreed to new policies, procedures and guidelines to prevent such impacts from recurring. For Special Events that are to occur but that the Landlord reasonably anticipates may cause substantial disruption to the operation or condition of the park, Landlord shall submit in writing to Tenant proposed changes to the plans for the Special Event that must occur in order to eliminate or mitigate such disruption to park operation or park condition. Upon review of the

conditions, Tenant may determine if the changes are acceptable or if the Special Event should be cancelled.

iii. Because the Coyote Point Recreation Area is a County Park that was established for the enjoyment of the public, Landlord may identify dates on which Tenant may not hold any Special Events to mitigate impacts on parking and park facilities. These dates may include, but are not limited to, Memorial Day, Labor Day, Independence Day/4<sup>th</sup> of July, Mother's Day, Father's Day, Thanksgiving, and Easter. Landlord will provide these dates to Tenant prior to the start of every calendar year, but no later than November 30 of each preceding calendar year.

iv. The Parties acknowledge and agree that there is a limited capacity at the Premises and limited parking at the Coyote Point Recreation Area and that a Special Event taking place at the Premises necessitates a reduction in the number of individuals allowed to access the Premises for Tenant's regular, daily operations or functions and Tenant will take reasonable and appropriate actions to limit individuals' access to the Premises for regular, daily operations such that the Premises is not occupied at any time beyond its capacity (for example, if there is a 100 person Special Event occurring at the Premises, Tenant will reduce the number of people permitted on the Premises for Tenant's regular, daily operations by 100 people). Further, to mitigate the impacts on parking at the Coyote Point Recreation Area, Tenant shall secure Landlord's written permission prior to holding more than one Special Event of any size at the same time and it shall be within the Landlord's good faith discretion to grant or deny requests to hold more than one Special Event at the same time.

v. As necessary, but not less than every two years, during the Term of the Agreement, the Parties will meet to review Special Events at the Premises and to consider any changes that either Party may propose related to the provisions of this Agreement addressing Special Events, including, but not limited to the number of allowed events per year. Tenant may seek to establish that hosting the authorized number of Special Events does not have an adverse impact on the Coyote Point Recreation Area or Parks Department operations and request that the authorized number of Special Events be increased. Landlord shall consider in good faith any request by Tenant to increase the authorized number of Special Events. However, should Landlord determine, in good faith, that the Tenant's hosting of Special Events is causing adverse impacts to the Coyote Point Recreation Area or Parks Department operations, including, but not limited to parking and litter in the park, Landlord may, reduce the number of authorized Special Events by an amount equal to no more than ten percent (10%) of the authorized Special Events. Landlord will meet and confer in good faith with the Tenant before reducing the number of Special Event authorized pursuant to this Section 8. If Tenant requests to increase the authorized number of Special Events, and Landlord denies such a request, or if the Landlord reduces the authorized number of Special Events, the Parties may resort to the dispute resolution process set forth in Section 24 of this Agreement.

vi. Tenant and its invitees shall also have the right to access the Premises after regular County Property park hours without paying any access fee at the park entrance; provided, that any after-hours entry shall be at Tenant's sole cost and expense, including the fully weighted cost of any of Landlord's staff time needed to provide such access. Tenant shall provide, at Tenant's sole expense, private security for the Premises for after-hours Special Events when Landlord's staff is not scheduled to be present, in coordination with Landlord with such security to be reasonably satisfactory to the County. For Special Events that are occurring outside of park operating hours, Tenant's invitees shall not access or recreate in areas of the park that are closed and Tenant shall take reasonable measures to ensure that such invitees do not access or recreate in areas of the Park that are closed. Should Tenant's invitees repeatedly access and/or recreate in areas of the park that are closed to the public and/or present a threat or risk to themselves or the park, Landlord may suspend future scheduling of Special Events until such time as

protocols are established to ensure Tenant's invitees stay on the Premises. Should an agreement not be reached, the Parties shall comply with the dispute resolution process established herein.

vii. Landlord agrees and acknowledges that the Permitted Use hereunder includes the operation of concessions within the Building and the wildlife center (and in any New Buildings), as previously operated to date by Tenant at the Premises and/or as appropriate for a museum, such as a bookstore, souvenir shop, vending machine(s), café service, and other similar related concessions, as reasonably determined by Tenant as appropriate for demand at the Premises. Tenant shall operate any permitted concessions in compliance with overall park policies and all charges to the public shall be fair and reasonable. All concessions operated by Tenant shall be conducted in a safe and sanitary manner and in compliance with all applicable laws and ordinances pertaining thereto (including generally applicable laws and ordinances that may be adopted after the date of this Agreement), and Tenant shall require such compliance in its contracts with all third party caterers and other vendors providing any such services for Tenant. No persons or vendors employed in connection with any such concessions shall be considered employees of Landlord. All profits from said concessions shall inure to Tenant with no commissions or other monies due Landlord with respect to such operations other than as included in the User Fee.

9. **Entrance Fee; Access; Parking.**

a. **Park Access Fees.** Current members, donors, vendors, volunteers and staff and/or rental users of Tenant shall have the right to access County Property when visiting the Premises without the payment of any applicable County Park entrance fee provided such persons provide proof of such right of access. Tenant shall make reasonable efforts to instruct its members, including the addition of new text on all parking passes, that free park entry is intended only for use of the Premises and that all such entrants are required to pay Park entry fees for use of other areas of the Park; provided, however, that Tenant shall not be liable for additional parking fees of any visitors who visit the Premises and subsequently use other Park resources without paying parking and access fees. Non-members of Tenant and other visitors of the County Property shall pay the then applicable County Property entrance fee when visiting the Premises during regular park operating hours. The details of the agreed upon "Entrance and Parking Fee System" are further described in Exhibit D, attached hereto. Pursuant to Section 8 above, Landlord and Tenant will meet as necessary, but in any event at least every two years to discuss Special Events. During each of these meetings, Parties shall review Exhibit D to ensure adverse impacts are not occurring due to the application of Exhibit D. Should either Party identify adverse impacts being created by the application of Exhibit D, all reasonable efforts shall be made to resolve such conflicts.

b. **Access and Parking.** Throughout the Term Landlord shall provide access to the Premises over and through the park entrance and Landlord's Retained Property. The Landlord shall provide Tenant, its agents, employees, contractors, members, lessees and invitees with nonexclusive use of all standard parking spaces in and about the Premises and all other portions of the County Property, and with exclusive use of Tenant's required accessible parking spaces for the Premises. Notwithstanding anything to the contrary herein, Landlord may close the Park to public access without liability to Tenant due to labor action, natural disasters, riot, acts of war, pandemics, or other Acts of God. Tenant will cooperate with Landlord in the shared use of all other parking spaces at the Premises. The Parties acknowledge that a parking study may be required for any Major Construction, subject to Tenant's obligation to make any upgrades to accessible parking spaces required in connection with any Major Construction as provided in Section 7e above. Landlord shall cooperate with Tenant to ensure adequate physical access to the Premises, including access after regular park hours or for special events as permitted hereunder, provided, however, that any after-hours access shall be provided to Tenant at Tenant's sole cost and expense for additional Park security staff to admit after-hours park visitors to

access the Premises. All special events shall be reported to the Landlord in writing at least thirty (30) days prior to such event, when practicable, with all such notice including a description of the event, number of attendees, and Tenant's arrangements for after-hours security when required by this Lease. The Parties will strive to keep open the lines of communication and to that end, will meet no less than annually to discuss events, the Entrance Parking Fee System, as discussed in Section 9a., above, and to communicate any on-going concerns. Landlord shall use good faith efforts to provide Tenant with prior written notice of any restrictions, reduction, construction, alteration or other changes to the public accessways into the park and/or the parking areas in the immediate vicinity of the Premises (with a goal of providing not less than thirty (30) days of such prior notice, where possible), and Landlord shall use reasonable efforts to minimize any adverse impact on Tenant's use and occupancy of and parking for the Premises arising from any of the foregoing causes.

10. **Management and Operation of Existing Facility.** Tenant agrees to manage, operate, maintain, and regulate the Existing Facility, including the existing Building, throughout the Term. Notwithstanding the foregoing, Landlord will make certain repairs to the existing Building; specifically repair to the roof and to the siding of the Building and it is anticipated that these repairs will have a useful life of approximately five (5) years and that they will cost approximately \$48,000. With these repairs made, Landlord will have no further obligation with respect to the Existing Facility. The scope of services to be provided are attached hereto as Exhibit E and the parties acknowledge and agree that the Landlord will expend up to \$48,000 for the scope of work set forth in Exhibit E. Tenant agrees to perform said functions to the best of its ability and subject to the following terms, conditions and restrictions:

a. Subject to reasonable health, safety, and special-event regulations, all members of the public shall be admitted to the Premises at during Tenant's regular business hours, which business hours shall be specifically approved by Landlord. The parties agree to meet and confer promptly regarding all requests by Tenant to adjust its business hours.

b. Tenant agrees to charge admission to the Premises at rates substantially similar to Tenant's operations to date and Tenant shall be entitled to make reasonable adjustments to such rates without Landlord's approval. Furthermore, Tenant is not required to obtain approval for rates associated with Tenant's rental of portions of the Premises for special events.

c. All accounts and financial records of Tenant, its board of trustees or managers relating to the operation, management, or maintenance of the Premises shall be subject to such reasonable inspection and audits as may be directed by Landlord's Board of Supervisors.

d. Tenant shall, at its sole expense, manage, operate, and maintain the Premises and all structures, improvements, utilities, and landscaping on the Premises, including the existing Building and all New Buildings and other improvements, in accordance with industry best practices and any pertinent and reasonable policies and guidelines issued by Landlord..

Landlord may also make changes to previously issued policies and guidelines for the Premises, so long as such changes do not materially adversely impact Tenant's access to, parking for and/or use of the Premises.

At any time that Landlord believes Tenant is not managing, operating or maintaining the Premises in accordance with this Lease, Landlord will immediately notify Tenant of said beliefs. Tenant will promptly modify its practices to suit Landlord or will notify Landlord in writing of its inability or unwillingness to do so. Should Tenant issue written notification to Landlord declining to make such

modifications as Landlord desires, the issue will be decided by Landlord's board of supervisors. Should the board determine that Tenant's position is unacceptable, it may order the Premises closed to the public (except for on-going administrative and maintenance uses by staff only) and may keep the Premises closed to the public until such time as Landlord and Tenant can agree on mutually acceptable terms of management, operation and maintenance.

e. Any signs to be attached to the buildings, fences or landscaped areas of the Premises or elsewhere in the Premises shall be approved by Landlord and shall be in reasonable conformity with other signs in the Coyote Point Recreation Area.

f. Tenant shall be responsible for the cost and expense of all management, operation, regulation and maintenance of the Premises, except as otherwise provided in this Lease.

g. Tenant agrees to maintain the Premises, the existing Building (and any New Buildings or other new improvements in a good, safe and sanitary condition, as more particularly set forth in Section 19 below, providing at its own expense such annual maintenance and repair as shall reasonably offset wear and tear.

h. Tenant shall care for all living creatures in the wildlife center and any other living exhibits with care and kindness and shall be certain that appropriate personnel are assigned to the care of such creatures.

11. **Hazardous Materials.** Tenant has no knowledge of any Hazardous Material having been identified to date on the Premises, nor has any such condition by any environmental consultant engaged by Landlord or by Tenant. The Parties agree that for purposes of this Lease, Tenant assumes responsibility for the investigation and remediation, as and to the extent required by Environmental Laws, of all Hazardous Material in, on or under the Existing Premises that is discovered during the Term.

a. **Release of Landlord.** Tenant hereby releases Landlord from all claims, liability, damages or costs, that Tenant may have at any time arising, directly or indirectly, from the presence, or alleged presence of Hazardous Material in, on or under the Premises; provided, however, that this release excludes and shall not apply to (i) any Hazardous Material that originates from any Landlord Retained Property then owned by Landlord and after the Effective Date migrates onto the Premises, or (ii) any Hazardous Material that are generated or caused by Landlord's acts or omissions after the Effective Date (collectively "Landlord Hazardous Materials"). In connection herewith, Tenant waives the provisions of Civil Code Section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR"

Initial of Tenant: \_\_\_\_\_

b. **Tenant to Comply with Environmental Laws.** Tenant shall comply, at its sole cost, with all Environmental Laws relating to any Hazardous Material other than Landlord Hazardous Materials in, on or under the Premises during the Term. Tenant shall become aware of the content of such Environmental Laws and all other laws regulating Hazardous Materials as enforced by, but not limited to, the City of San Mateo, the Bay Area Air Quality Management District, San Mateo County Health Department, the San Mateo Valley Water District, California Regional Water Quality Control Board, California Environmental Protection Agency, Department of Toxic Substances Control and all state and

Federal offices enforcing regulations concerning occupational safety and health. It shall be the sole obligation of Tenant to obtain any permits and approvals required pursuant to the Environmental Laws.

c. Landlord's Consent Required. Tenant shall be entitled to store and use at the Premises regular office and cleaning supplies containing Hazardous Materials, as well as additional items containing Hazardous Materials such as paint and welding supplies, so long as all such use and storage is in compliance with applicable Environmental Laws and is approved as part of the annual Fire Marshall's inspection of the Premises. Otherwise, Tenant shall not store or use any other Hazardous Materials on, in or about the Premises without obtaining Landlord's prior written consent, and then only to the extent expressly approved by Landlord in writing (all such Hazardous Materials as well as any other Hazardous Materials brought to the Property by Tenant, its agents and contractors are referred to herein as "Tenant Hazardous Materials"). Tenant's usage and storage of Tenant Hazardous Materials shall be in compliance with Environmental Laws. Tenant shall not be entitled nor permitted to install any tanks under, on or about the Premises for the storage of Tenant Hazardous Materials without the prior written consent of Landlord, which may be given or withheld in Landlord's sole discretion. Landlord shall have the right at any time during the Term, on reasonable prior notice to Tenant and if Landlord has a reasonable belief that Tenant is in breach of its obligations hereunder with respect to Hazardous Materials (i) to inspect the Premises; (ii) to conduct tests and investigations to determine whether Tenant is in compliance with the provisions of this Section; and (iii) to request lists of all Tenant Hazardous Materials used, stored or otherwise introduced or brought onto the Premises by Tenant. If Landlord requests a list of Tenant Hazardous Materials, Tenant shall provide a complete list within fifteen (15) days. The costs of such inspections, tests and investigations shall be borne solely by Tenant, if Landlord reasonably believes they are necessary. The rights granted to Landlord herein shall not create (a) a duty on Landlord's part to inspect, test, investigate, monitor or otherwise observe any Major Construction and the activities of Tenant with respect to Hazardous Materials, including Tenant's operation, use and any remediation related thereto, or (b) liability on the part of Landlord for Tenant's handling, use, storage, disposal or remediation of any Tenant Hazardous Materials, it being understood that Tenant shall be solely responsible for all liability in connection therewith. No consent requested of, and given by, Landlord pursuant to this Section shall be deemed to make Landlord a "controlling" Party nor shall any Landlord consent result in Landlord assuming any responsibility for Tenant Hazardous Materials on the Premises. The obligations of Tenant hereunder shall not apply to any Landlord Hazardous Materials.

d. Tenant Indemnity. Tenant shall be solely responsible for and shall indemnify, protect, defend (by counsel approved by Landlord) and hold harmless Landlord and its agents and employees (collectively the "Landlord Indemnitees") from and against any and all claims, costs, penalties, fines, losses which arise during or after the Term as a result of the presence of Hazardous Materials in, on, under or about the Premises other than Landlord Hazardous Materials, including any resulting from receipt, handling, use, storage, accumulation, transportation, generation, spillage, migration, discharge, or disposal of such Hazardous Materials in, upon or about the Premises including (i) diminution in value of the Premises; (ii) damages from the loss or restriction on use of rentable or usable space or of any amenity of the Premises; and (iii) sums paid in settlement of claims, attorneys' fees, consultants' fees, costs of investigation, damages, injuries, causes of action, judgments and expenses. This indemnification of the Landlord Indemnitees by Tenant includes any and all costs incurred in connection with any investigation of site conditions and any clean up, remediation, removal or restoration work required by and federal, state or local governmental agency or political subdivision because of Hazardous Materials other than Landlord Hazardous Materials present in the soil, sub-soils, groundwater, equipment or elsewhere in, on, under or about the Premises. This indemnification by Tenant shall survive the termination of this Lease.

e. Tenant Remediation. If contamination or deterioration exists of air, water or soil in, on, under or above the Premises resulting in a level of contamination greater than the maximum levels established from time to time during the Term by any governmental authority having jurisdiction over such contamination, then Tenant shall promptly take any and all action necessary to clean up such contamination in the manner as required by law. Tenant shall not take any remedial action in response to the presence of any Hazardous Materials in or about the Premises, nor enter into any settlement agreement, consent decree, or other compromise in respect to any claims relating to any Hazardous Materials in any way connected with any Major Construction, without first notifying the Landlord of Tenant's intention to do so and affording Landlord ample opportunity to appear, intervene, or otherwise appropriately assert and protect Landlord's interest with respect thereto. If Tenant fails to take such action, Landlord may, but shall not be obligated to, take such action. In such event, all costs incurred by Landlord with respect to such cleanup activities shall be for the account of, and reimbursed to the Landlord by Tenant.

f. Tenant Notice to Landlord. Tenant shall immediately provide Landlord with telephonic notice, which shall later be confirmed by written notice, of any and all accumulation, spillage, discharge, and disposal of Hazardous Materials onto or within the Premises, and any injuries or damages resulting directly or indirectly therefrom. Further, Tenant shall deliver to Landlord a copy of each and every notice or order received from governmental agencies concerning the possession, use and/or disposal of Hazardous Materials at the Premises promptly upon receipt of each such notice or order. In addition, Tenant shall immediately notify Landlord in writing of (i) any enforcement, cleanup, removal, or other governmental or regulatory action instituted, completed, or threatened pursuant to any Environmental Laws; (ii) any claim made or threatened by any person against Tenant relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Materials; and (iii) any reports made to any local, state or federal environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Premises, including any complaints, notices, warnings, or asserted violations relating in any way to any Major Construction, or Tenant's use thereof. Tenant shall promptly deliver to Landlord copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises. Landlord shall have the right to enter on the Premises upon twenty-four (24) hours oral notice to Tenant for the purpose of inspecting any Major Construction for compliance with all environmental requirements.

g. Storage of Tenant Hazardous Materials. Tenant shall store in appropriate leak-proof containers, or in any other manner approved or prescribed by law, any and all Tenant Hazardous Materials permitted within the Premises pursuant to this Agreement, which if discharged or emitted into the atmosphere, upon the ground or into or on any body of water will or may (i) pollute or contaminate the same, or (ii) adversely affect (a) the health, safety or welfare of persons, whether on the Premises, or elsewhere, or (b) the condition, use or enjoyment of the Premises, or any real or personal property whether on the Premises or anywhere else, or (c) the Premises or any of the improvements thereto or thereon. There shall be no ponding or surface storage whatsoever of Hazardous Materials on the Premises. The following substances may not from be brought onto the Premises: Arsines, Etching, Asbestos, Fluorocarbons, Chlorocarbons, Freon, Dioxins, (including dioxin precursors and intermediates) or anything contained in the California List of Extremely Hazardous Chemicals.

h. Tenant's Disposal of Hazardous Materials. Notwithstanding anything to the contrary contained in this Section 10, Tenant shall not dispose of any Hazardous Materials, regardless of the quantity of concentration, within the drains and plumbing facilities within the Premises or other property of Landlord. The disposal of Hazardous Materials shall be in approved containers and removed

from the Premises and County Property only by duly licensed carriers. If Tenant becomes aware of or suspects the presence of any Hazardous Materials existing within or coming onto the Premises, Tenant shall immediately give written notice of such condition to Landlord as required by California Health and Safety Code Section 25359.7.

i. Information/Fines. Tenant shall maintain a Material Safety Data Sheet for each and every Tenant Hazardous Material brought into the Premises by or for Tenant. Such information shall be kept current at all times and shall be kept in a place accessible to Landlord at any time for inspection and in the event of an emergency. Tenant shall pay, prior to delinquency, and all fees, taxes (including excise taxes) and fines that are charged upon or incident to Tenant's activities related to Hazardous Materials, and shall not allow such obligations to become a lien or charge against the Premises or upon Landlord. Tenant shall deliver to Landlord true and correct copies of the following documents related to the handling, storage, transportation, disposal and emission of Hazardous Materials, concurrently with the receipt from or submission to a governmental agency: Permits; approvals, reports and correspondence; storage and management plans, notice of violations of any Environmental Laws; plans relating to the installation of any storage tanks to be installed in, under or around the Premises; and all closure plans or any other documents required by any and all federal, state and local governmental agencies and authorities for any storage tanks installed in, or under the Premises.

j. Closure on Lease Termination. On or before the expiration of this Lease, Tenant shall take any and all action required to be taken under Environmental Laws in order (i) to surrender the Premises to Landlord in a condition which would be completely free of any and all Tenant Hazardous Materials in violation of Environmental Laws; and (ii) close and remove any storage tanks installed with Landlord's prior written consent in, on or under the Premises as required by Environmental Laws. Tenant shall submit to Landlord any and all closure plans required by law. Tenant shall complete its closure within a reasonable time after the delivery of its closure plan to Landlord, and in all events Tenant shall complete its closure and/or removal before Lease Termination. Tenant shall submit to Landlord prior to Lease Termination copies of appropriate documentation evidencing that all requirements of agencies with jurisdiction over Tenant's closure have been satisfactorily met.

k. Definitions.

i. Hazardous Material. "Hazardous Material" means any hazardous, explosive or toxic substance, material or waste that is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 15122.7, or is listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter Presley Tanner Hazardous Substance Account Act); (iii) defined as "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (v) petroleum; (vi) asbestos; (vii) listed under Section 9 or defined as hazardous or extremely hazardous pursuant to Section 11 of Title 22 of the California Administrative Code, Division 4, Chapter 30; (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C., § 1317); (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or (x) defined as a

"hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 41 U.S.C. § 9601 et seq.

ii. Environmental Law. "Environmental Law" means any present or future federal, state or local law, whether common law, statute, rule, regulation or ordinance, judgment, order, or other governmental restriction, guideline, listing or requirement, relating to the environment or any Hazardous Material, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq., and applicable provisions of the California Health and Safety Code and the California Water Code, all as heretofore or hereafter may be amended from time to time.

12. Compliance by Tenant with Laws and Governmental Regulations. Tenant, at its sole cost and expense, promptly and at all times shall comply with all present and future laws, statutes, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments, courts, departments, commissions, boards, and offices ("Applicable Laws") which are applicable to the Premises or to the use or manner of use of the Premises by the occupants thereof, excepting only (i) legal compliance of Landlord Hazardous Materials as provided in Section 11, above, and (ii) Landlord's discharge of its maintenance and repair obligations as set forth in Section 19 below. Tenant, at its sole cost and expense, shall have the right to contest by appropriate proceedings diligently conducted in good faith in the name of Tenant, the validity or application of any Applicable Law. If compliance with any Applicable Law legally may be delayed pending the prosecution of any such proceeding without cost or penalty and without subjecting Landlord to any liability, civil or criminal, Tenant may delay compliance until the final determination of such proceeding. Tenant shall not use the Premises for any unlawful purpose and shall not perform, permit or suffer any act of omission or commission upon or about the Premises which would result in a nuisance or a violation of the laws and ordinances of the United States, State of California, County of San Mateo, or the City of San Mateo.

13. County Use of County Property; County Obligations. Tenant acknowledges that Landlord has made no representations regarding the use, development or operation of any other portion of the County Property. Notwithstanding the foregoing, the Landlord shall use reasonable efforts to ensure the County Property is not used, developed or operated so as to impair or impede the view corridor enjoyed by Tenant (i.e., the County shall give reasonable consideration to preventing northern and easterly views being obstructed by buildings or other permanent structures in the future).

14. Ownership of Improvements During Term.

a. New Buildings and Improvements. All New Buildings and other new improvements constructed or caused to be constructed at or on the Premises by Tenant, as well as any Major Renovations to the Building, shall be and shall remain the property of Tenant at all times during the Term.

b. Personal Property. Tenant shall provide all personal property reasonably required for normal operation of the Premises to the standard required in this Lease. During the Term, all personal property, furnishings, fixtures and equipment installed by Tenant in, on or around the Premises which are attached to the Premises and can be removed without substantial damage to the Building or any New Buildings or other elements of the Premises shall be the personal property of Tenant (the "Personal Property"). At any time during the Term, Tenant shall have the right to remove the Personal Property, provided Tenant shall repair any damage caused by the removal of Personal Property. Personal Property shall exclude any portion or part of major building components or fixtures necessary for the operation of the basic building systems for the Building and any New Buildings (such as floor covering, window

coverings, elevators, escalators, chillers, boilers, plumbing, electrical systems, lighting, sanitary fixtures and HVAC systems).

c. Survival. The provisions of this Section 14 shall survive Lease Termination.

15. **Disposition of Improvements and New Buildings upon Termination**.

a. Conveyance to Landlord. Upon Lease Termination, all New Buildings, any Major Renovations to the Building, and all other permanent improvements then on the Premises made by or for Tenant shall unconditionally be and become the property solely of Landlord, without compensation to Tenant and this Lease shall operate as a conveyance and assignment thereof. Notwithstanding the foregoing, Tenant agrees that animal exhibits are not considered permanent improvements, and in all events, upon the expiration or earlier termination hereof Tenant is responsible for relocating all animal exhibits to suitable, replacement venues, at Tenant's sole expense. Upon the expiration or earlier termination of the Term of this Lease, Tenant will surrender and deliver to Landlord the Premises and to the extent then existing all permanent improvements, (a) in proper and safe working condition, subject however, to reasonable wear and tear, and the effects of casualty or condemnation excepted; provided, however, that if Tenant elects not to rebuild the Premises following any total casualty, the proceeds of Tenant's property insurance policy shall be used to remove all debris from the Premises and return the same to Landlord in its original, undeveloped condition, (b) free of Hazardous Substances introduced by Tenant, Tenant's employees, contractors or agents, and (c) free and clear of all liens and encumbrances created by or through Tenant, other than utility easements or any other encumbrance to which Landlord consented in writing. For any "capital" elements of such improvements (e.g., roof, HVAC system), Tenant shall not be required to replace any such elements within the final five (5) years of the Term unless the same is beyond its useful life or not in proper working condition according to the then industry standards.

b. Personal Property. Any Personal Property of Tenant which remains on the Premises for thirty (30) days after the Lease Termination shall unconditionally be and become the property solely of Landlord without compensation to Tenant and this Lease shall operate as a conveyance and assignment thereof.

c. Survival. The provisions of this Section 15 shall survive Lease Termination.

16. **Insurance**. Tenant, at its sole cost and expense, during the Term shall keep and maintain the following policies of insurance:

a. Property Insurance. Property damage insurance covering the Premises, including, without limitation, the Existing Facility and all New Buildings and/or Major Renovations (if and to the extent that such New Buildings and/or Major Renovations re constructed by Tenant), and all Personal Property owned by Tenant located on or in, or constituting a part of, the Premises, insuring against all risks of direct physical harm except those excluded by the broadest form of property insurance coverage in general use. The property insurance shall cover, at a minimum, the perils of fire, extended coverage, vandalism and malicious mischief, flood (but only if the Premises is in a flood zone), demolition and debris removal costs and increased costs that may be required by code or ordinance upgrades. The insurance coverage amount shall be equal to one hundred percent (100%) of the full replacement cost of all insured property. The insurance shall (a) be provided on an all risk property coverage form as is customary for like properties in San Mateo County from time to time during the term of this Lease and (b) cover explosion of steam and pressure boilers and similar apparatus located on the Premises. The insurance required hereunder shall be in amounts sufficient to prevent Tenant from becoming a co-insurer

under the terms of the applicable policies, and any deductibles or self-insurance retentions for insurance required to be carried by Tenant pursuant to this Section shall be subject to Landlord's prior written approval. If Tenant performs any Major Construction, the policies of insurance carried in accordance with this Section 16 shall contain a "replacement cost endorsement" and an "increased cost of construction endorsement and such other endorsements as may be required by any Approved Lender (if any) and shall name any holder of any Leasehold Encumbrance as a loss payee in form acceptable to the lender. In lieu of obtaining insurance from a third party insurer, Tenant may "self-insure" its personal property (but not any Major Construction or third party property under Tenant's control) provided such self-insurance affords Landlord, in Landlord's reasonably exercised discretion, all protections that would be available from third party insurance as required hereunder.

i. Full Replacement Cost. Full replacement cost shall be determined from time to time, but not more frequently than once in any twelve (12) consecutive calendar months (except in the event of substantial changes, alterations or additions to the Premises), upon the written request of Landlord, by written agreement of Landlord and Tenant, or if they cannot agree within thirty (30) days of such request, by one of the insurers, or at the option of Landlord, by an appraiser, architect or contractor reasonably acceptable to Landlord, Tenant and the insurer(s). A copy of any such determination shall promptly be sent to Landlord, Tenant and the insurer(s) upon receipt thereof, and the insurance maintained in this Section 16 shall be adjusted to one hundred percent (100%) of the new full replacement cost.

ii. Automatic Increase. On any anniversary of the Effective Date, if Landlord has not requested and obtained an adjustment in the full replacement cost of Major Construction (if any) with the prior twelve (12) month period, then the full replacement cost shall be deemed to have increased by the percentage increase in construction costs in the region for the previous twelve (12) month period as reflected in the Marshall & Swift West Coast Cost Index (or a successor index reasonably acceptable to Landlord and Tenant) using the Trend Multiplier for the San Francisco Area (the "Deemed Increase") and Tenant shall cause the insurance coverage required by this Section 16 to be increased in an amount equal to the Deemed Increase multiplied by the full replacement cost in effect immediately prior to the relevant anniversary date. Tenant shall notify Landlord promptly of each insurance coverage increase hereunder.

b. Liability Insurance. General liability or commercial general liability insurance on an "occurrence basis" covering at a minimum liability for bodily injury, physical damage to property, products and completed operations, explosion, collapse and underground hazards, other personal and business torts and contractual liability on, in or about the Premises or any elevators or any escalators therein and on, in or about the adjoining sidewalks, and passageways within the Premises. At all times during the Term, the limits of liability under this Section 16b shall be not less than five million dollars (\$5,000,000) combined single limit per occurrence, and any deductibles or self-insurance retentions for insurance required to be carried by Tenant pursuant to this Section shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld. Every five (5) years, prior to the anniversary of the Effective Date, Tenant shall deliver to Landlord a certificate of the insurer showing that Tenant caused the policy to be amended to increase the limits of liability by the same percentage that the Consumer Price Index has by then increased over the prior five (5) years. At all times when there are construction operations on the Premises, Tenant shall cause the Contractor and all Subcontractors to carry commercial liability insurance meeting requirements of this Section and of Section 7.

c. Worker's Compensation Insurance. Worker's compensation insurance, in the amount required under then applicable state law, covering Tenant's employees, if any, at work in or upon

the Premises, together with employees liability insurance for not less than one million dollars (\$1,000,000) per occurrence for all employees engaged in services or operations under this Lease providing inclusion of Landlord, its governing board and employees as additional insureds (or a waiver of subrogation). Tenant shall require that each Construction Contract shall include a contractual undertaking by the Contractor to provide worker's compensation insurance for its employees engaged in construction work at the Premises in an amount in compliance with applicable state law.

d.

Misce

llaneous Insurance and Endorsements. Tenant also shall carry the following insurance and/or endorsements: (i) Coverage against liability for bodily injury or property damage arising out of the use, by or on behalf of Tenant, of any owned, non-owned, leased or hired automotive equipment in the conduct of any and all operations called for under this Lease; (ii) Cross liability endorsements; (iii) Contractual liability, expressly including contractual indemnity liability assumed by Tenant under this Lease; (iv) Broad form property damage liability; (v) Additional insured endorsements to the liability policies protecting Landlord, its Supervisors, agents and employees; (vi) Premises and operations including bodily injury, personal injury, death or property damage occurring upon, in or about the Premises; and (vii) With regard to the policies of general liability and automobile liability, each shall contain an endorsement that provides that the insurance applies separately to each insured that is seeking coverage or against whom a claim is made, except with respect to the limits of liability.

e. General Insurance Provisions. All policies of insurance provided for in this Section shall be provided under valid and enforceable policies, in such forms and amounts as required in this Lease, issued by insurers authorized to do business in the State of California and having a rating of A:V or better in Best Insurance Guide or, if Best Insurance Guide is no longer in existence, a comparable rating from a comparable rating service. Upon the Effective Date and, thereafter, not fewer than fifteen (15) days prior to the expiration date of each policy furnished pursuant to this Section, Tenant shall deliver to Landlord two copies of a certificate of the insurer reasonably satisfactory to Landlord. Each certificate shall certify that coverage required in this Lease has been issued and remains in force, including all endorsements required by this Lease. If requested by Landlord, Tenant shall deliver within five (5) days following such request, certified, complete copies of the insurance policies and endorsements required in this Lease. Insurance policies to be provided under this Lease shall meet the following:

i. Each casualty and liability policy of insurance obtained pursuant to this Lease, other than workers compensation insurance, if any, shall contain endorsements which provide (i) a waiver by the insurer of the right of subrogation against Landlord, Tenant or any Subtenant for negligence of any such person; (ii) a statement that the insurance shall not be invalidated should any insured waive in writing prior to the loss any or all right of recovery against any Party for loss accruing to the property described in the insurance policy; and (iii) a provision that no act or omission of Tenant which would otherwise result in forfeiture or reduction of the insurance therein provided shall affect or limit the obligation of the insurance company to pay any additional insureds the amount of any loss sustained to which they otherwise would be entitled;

ii. Each policy required hereunder shall include a Notice of Cancellation or Change in Coverage Endorsement which shall provide that such policy shall not be cancelled or materially changed without at least thirty (30) days' prior written notice by registered or certified mail to Landlord;

iii. Each casualty and liability policy, other than workers compensation insurance, shall be written as a primary policy not contributing with and not in excess of coverage that Landlord may carry; and

iv. Each casualty and liability policy, other than workers compensation insurance, shall expressly provide that Landlord shall not be required to give notice of accidents or claims and that Landlord shall have no liability for premiums.

f. Blanket and Umbrella Policies. Any insurance provided for in this Section 15 may be placed by a policy or policies of blanket and/or excess liability (or umbrella) insurance; provided, however, that such policy or policies provide that the amount of the total insurance allocated to the Project shall be such as to furnish protection the equivalent of separate policies in the amounts herein required, and provided further that in all other respects any such policy or policies shall comply with the other provisions of this Lease.

g. Blanket Waiver of Subrogation. To the extent permitted by law and the policies of insurance required to be maintained hereunder, and without affecting such insurance coverage, Landlord and Tenant each waive any right to recover against the other (i) damage to property; (ii) damage to the Existing Facility and/or any Major Construction installed by Tenant, or any part thereof; or (iii) claims arising by reason of any of the foregoing, to the extent that such damages and/or claims are covered (and only to the extent of such coverage) by insurance actually carried by either Landlord or Tenant (or to the extent Tenant has elected to self-insure under this Section 16). This provision is intended to restrict each Party (as permitted by law) to the extent of such coverage, and waive fully, and for the benefit of each, any rights and/or claims which might give rise to a right of subrogation in any insurance carrier.

h. Compliance with Policy Requirements. Tenant shall observe and comply with the requirements of all policies of public liability, fire and other policies of insurance at any time in force with respect to the Premises and the New Project. Tenant shall perform and satisfy the requirements of the companies writing Tenant's policies so that at all times companies of good standing shall be willing to write or to continue such insurance.

i. Landlord Disclaimer. Landlord makes no warranty or representation that the forms or limits of coverage required hereunder are adequate to protect Tenant's property or to cover Tenant's obligations under this Lease. Tenant's obligations hereunder shall not be limited to the amount of insurance that Tenant is required to provide by this Section 16. Tenant's failure to deliver any insurance certificate or policy to Landlord, or Landlord's failure to request delivery of any certificate or policy, in no way be construed as a waiver of Tenant's obligation to provide the insurance coverage specified herein.

j. Adjustment of Coverage. If either Party shall at any time believe that the limits or extent of coverage or deductibles with respect to any of the insurance required in this Section 16 then carried are either excessive or insufficient for a prudent owner and operator of a project like the Existing Facility and related improvements (and any New Buildings, if applicable), or if any required coverage is at any time not available, or not available at commercially reasonable rates, the Parties shall endeavor to agree upon the proper, practicable and commercially reasonable limits and extent of coverage and deductibles for such insurance, and upon doing so shall execute an addendum to this Lease, letter agreement or other writing memorializing their agreement. If the Parties at any time are unable to agree on the proper, practicable and commercially reasonable limits and extent of coverage and deductibles for such insurance, the matter(s) in dispute shall be resolved pursuant to the provisions of Section 23 by a

mediator having at least ten (10) years of experience advising clients regarding appropriate levels of insurance for commercial, retail projects.

k. **Landlord's Insurance.** Throughout the Term, at its sole cost Landlord shall maintain (i) such liability insurance as is currently maintained by Landlord for the County Property, as the same is upgraded or amended from time to time, and (ii) worker's compensation insurance as required under applicable State laws.

17. **Indemnification by Tenant; Limitation of Liability.** Notwithstanding the negligent or willful misconduct of Landlord, Tenant shall indemnify and save harmless Landlord from and against any and all claims by or on behalf of any person, firm or corporation arising during the Term to the extent arising from (i) any condition of, and/or any accident, injury or damage whatsoever caused to any person, firm or corporation occurring within, the Premises (including any Additional Premises if Tenant elects to expand the Premises); (ii) Tenant's breach or default in the performance of any of its covenants or agreements under this Lease; (iii) any negligence of Tenant or any of its employees. Tenant's indemnification obligation shall include all costs, attorney's fees, expenses and liabilities incurred in defending Landlord against any such claim, action or proceeding.

18. **Damage or Destruction.** If the Building (or any New Buildings or other improvements on the Premises) is damaged or destroyed, except to the extent of Landlord negligence or willful misconduct or as otherwise provided in this Section 18, Tenant shall restore and rebuild such improvements as nearly as practicable to their condition immediately prior to such damage or destruction or with such changes or alterations as may be in conformity with the provisions of this Lease relating to changes or alterations; provided, that Tenant's obligation shall be limited to the proceeds of Tenant's casualty insurance. Upon a damage or destruction, all insurance proceeds paid in respect of the damage or destruction shall be applied to the payment of the costs of the restoration required to be performed by Tenant pursuant to this Lease, and as otherwise provided in this Section 18. Any insurance proceeds shall be held in trust by a financial institution (the "Insurance Trustee") agreed upon by Landlord and Tenant, with the costs of such trust to be a first charge against the insurance proceeds. After the completion of the restoration of the Premises, and expiration of all lien periods without any lien being filed, any remaining insurance proceeds shall be paid to Tenant and Tenant shall be entitled to retain the same.

a. **Tenant Election to Restore.** Tenant shall commence work on the restoration of any damage or destruction within one hundred twenty (120) days following the damage or destruction and diligently and continuously shall carry out the restoration to full completion as soon as practicable. The restoration by Tenant following any damage or destruction shall be in accordance with the provisions of Section 6.

b. **Notice Required.** In the event of material damage to or destruction of the Premises, Tenant shall promptly give Landlord notice of such occurrence and take all actions reasonably required to protect against hazards caused by such damage or destruction. For purposes of this Section 18 damage or destruction shall be deemed to be material if the estimated cost to repair equals or exceeds \$500,000.00.

c. **Commencement of Restoration Defined.** Tenant shall be deemed to have commenced the restoration process when it engages an architect and is diligently pursuing resolution of claims with Tenant's insurer.

d. **Tenant's Right to Terminate.** Notwithstanding anything in this Section 18 to the contrary, so long as Tenant has maintained in effect the casualty insurance required by this Lease, Tenant

shall have the right to terminate this Lease, effective as of the date of the casualty, upon written notice to Landlord (a "Termination Notice") in the event that any damage or destruction occurs and: (i) the reasonably estimated cost of the restoration work exceeds the available insurance proceeds by more than fifty percent (50%) of the then applicable full replacement cost; (ii) then existing laws would not permit the repair, replacement, reconstruction and/or restoration of the Premises to substantially the same condition and use as at the time immediately preceding the damage or destruction, or otherwise to a condition that would produce an economically feasible project of substantially the same use, consistent with all applicable requirements of this Lease; (iii) the time required to obtain all necessary governmental approvals required for the repair, replacement, reconstruction and/or restoration of the New Project in accordance with clause (ii) above, proceeding as promptly as reasonably practicable and using all commercially reasonable diligence, is reasonably estimated to exceed twelve (12) months from the date of the damage or destruction; or (iv) the damage or destruction occurs five (5) years prior to the expiration of the then Term (as it may have previously been extended by Tenant) and the cost of the restoration work (regardless of the availability of insurance proceeds) is reasonably estimated to exceed twenty five percent (25%) of the then applicable full replacement cost.

e. Disbursement of Insurance Proceeds Upon Termination. If this Lease shall terminate following the occurrence of damage to or destruction of the New Project as provided herein, then all insurance proceeds recovered by Tenant or payable to Tenant on account of such damage or destruction under policies carried by Tenant pursuant to Section 18 (collectively, "Casualty Proceeds"), shall be distributed in the following order of priority:

i. First, to the payment of all out of pocket third party costs and expenses, including reasonable attorneys' fees, costs and disbursements, reasonably incurred in collecting the Casualty Proceeds;

ii. Second, to the reimbursement of Tenant for any costs reasonably incurred by Tenant for demolition, restoration and removal work or emergency related work; and

iii. Third, the balance of the Casualty Proceeds shall belong to Tenant.

f. Removal of Debris. If this Lease shall terminate following the occurrence of damage to or destruction of the Premises, Tenant shall have no obligation to restore or rebuild any New Project, but Tenant shall remove the debris and damaged portion of the Premises and restore the Land or the applicable portion thereof to a neat, clean and safe condition, at Tenant's cost and expense and to the reasonable satisfaction of the Landlord (but subject to reimbursement from the Casualty Proceeds).

g. No Further Obligation to Pay User Fee. If this Lease has been terminated pursuant to the provisions hereof, Tenant shall no longer be required or obligated to make User Fee payments nor to perform any of its other covenants or conditions under this Lease.

h. Failure to Complete Restoration. Once Tenant commences restoration, it shall diligently pursue the work to completion. A failure to diligently pursue such restoration shall be an event of default under this Lease.

i. Right to Participate in Settlement. Tenant shall have the sole right to negotiate, settle and compromise any insurance claim, unless Tenant has terminated this Agreement under this Section.

j. Survival. Landlord's and Tenant's rights and obligations under this Section 18, including their rights to receive proceeds, shall survive any termination of this Lease.

19. **Repairs, Changes, Alterations and Major Construction.**

a. **Repairs and Maintenance.**

i. **By Tenant:** Tenant shall keep all portions of the Premises in good operating order and condition, including without limitation all elements of the Building, all New Buildings and all additional improvements, as well as all exterior portions of the Premises (including tree trimming and removal as reasonably necessary), reasonable wear and tear and damage by casualty excepted. Tenant shall make all necessary repairs and perform all maintenance, interior and exterior, to keep the Premises to the standard described above in a well maintained, safe, clean and sanitary condition. The term "repairs" shall include replacements or renewals when reasonably necessary to satisfy the above standard. Tenant's obligations shall include maintenance of all fencing within and surrounding the Premises, and all areas within such fencing including paving and landscaping (all such portions of the Premises are referred to herein as "Exterior Fenced Areas").

ii.

iii. **Building Maintenance Needs Assessment.** By the 15th anniversary of the Effective Date, Tenant shall cause to be completed an assessment of any maintenance needs of the Premises. The assessment shall be conducted at Tenant's sole cost and expense by a professional third-party inspector mutually agreeable to Parties. Tenant shall diligently cause to be performed, at Tenant's sole cost and expense, all reasonable maintenance tasks impacting safety, recommended by the inspector with respect to all elements of the Premises to be maintained by Tenant under this Section 18a.

b. **Changes and Alterations.** Except as permitted by this Lease, Tenant shall not make any changes, alterations, replacements or additions in, to or of the Premises, including without limitation any Major Construction (collectively, "Alterations") without the prior written consent of Landlord, which Landlord shall not unreasonably withhold or delay, so long as all the following are complied with by Tenant:

i. Tenant shall pay all costs and expenses related to the Alterations;

ii. The Alteration shall be for a use which is permitted hereunder;

iii. Tenant shall obtain and pay for, all required permits and authorizations of any federal, state, county or municipal government or departments or subdivisions of any of them, having jurisdiction. Landlord shall join in the application for permits or authorizations whenever necessary. Landlord shall incur no liability or expense in connection with its cooperation and Tenant shall reimburse Landlord for Landlord's related reasonable attorneys' fees and all other reasonable related expenses;

iv. Any Alteration shall be made in a good and workmanlike manner and in accordance with all applicable permits and authorizations and building and zoning laws and with all other Applicable Laws; and

v. During the period of construction of any Alterations, Tenant shall maintain or cause to be maintained applicable insurance described in Section 16, which policy or policies by endorsement thereto, if not then covered, shall also insure any change, alteration or addition or new construction, including all materials and equipment incorporated in, on or about the Project (including excavations, foundations and footings) under a broad form (or equivalent) builders' risk form.

c. Exceptions to Consent Requirement. The foregoing notwithstanding, Tenant shall not be required to obtain Landlord's prior written consent to any Alterations so long as all the following requirements are met:

- i. The Alteration is non-structural;
- ii. The Alteration is not visible from the exterior of any building on the Premises
- iii. The Alteration has a cost of less than \$250,000.00;
- iv. Notwithstanding the foregoing, without limiting Tenant's obligations under Section 7 above with respect to any Major Construction, for all Alterations Tenant shall deliver to Landlord at least thirty (30) days before commencement of any Alteration written notice of the proposed work, a general description of the proposed work and sufficient information to permit Landlord to post a notice of non-responsibility on the Premises. Tenant shall deliver to Landlord within sixty (60) days following completion of the work, three sets of "As Built" plans and provide electronic copies of the "As Built" for all work for which architectural drawings are required.

20. Eminent Domain.

a. Definitions. The following definitions shall apply in construing the provisions of this Section 20:

- i. Award. "Award" means all compensation, damages or interest, or any combination thereof, paid or awarded for the Taking, whether pursuant to judgment, by agreement, or otherwise.
- ii. Notice of Intended Taking. "Notice of Intended Taking" means any notice or notification on which a reasonably prudent person would rely and would interpret as expressing an existing intention of Taking as distinguished from a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a Party to this Lease. The notice is considered to have been received when a Party to this Lease receives from the condemning agency or entity a written notice of intent to take.
- iii. Partial Taking. "Partial Taking" means any Taking that is neither a Total Taking nor a Substantial Taking.
- iv. Substantial Taking. "Substantial Taking" means the Taking of so much of the Premises that the remaining portion thereof would not be economically and feasibly usable by Tenant for the then existing uses and purposes of the Premises, but shall exclude a Temporary Taking.
- v. Taking. "Taking" means any taking of or damage to, including severance damage, all or any part of the Premises or any interest therein by the exercise of the power of eminent domain, or by inverse condemnation, or a voluntary sale, transfer or conveyance under threat of condemnation in avoidance of the exercise of the power of eminent domain or while condemnation proceedings are pending.
- vi. Temporary Taking. "Temporary Taking" means the Taking of any interest in the Premises for a period of less than five (5) years.

vii. **Total Taking.** "Total Taking" means the Taking of the fee title to all, or substantially all, of the Premises.

b. **Notice.** The Party receiving any notice of the kind specified below shall promptly give the other Party written notice and a copy of any:

- i. Notice of Intended Taking;
- ii. Service of any legal process relating to condemnation of all or any portion of the Premises;
- iii. Notice in connection with any proceedings or negotiations with respect to such a condemnation; or
- iv. Notice of intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of condemnation.

Landlord and Tenant, and any of their respective secured lenders, each shall have the right to represent its respective interest in each proceeding or negotiation with respect to a Taking or intended Taking and to make full proof of their respective claims. No agreement, settlement, sale or transfer to or with the condemning authority shall be made without the mutual agreement of Landlord and Tenant and their secured lenders. Landlord and Tenant each agree to sign, acknowledge and deliver to the other any instruments that may be reasonably required to effectuate or facilitate the provisions of this Lease relating to condemnation.

c. **Total or Substantial Taking.** In the event of a Total Taking or Substantial Taking, this Lease shall terminate, and Tenant's interest in this Lease and all obligations of Tenant subsequently accruing hereunder shall cease, as of the first to occur of (i) the date of the vesting of title in the condemning authority or (ii) the date actual physical possession of all or part of the Premises is taken by the condemning authority prior to the date of vesting of title. Tenant's obligations to pay User Fee shall terminate as of such date.

d. **Award for Total or Substantial Taking.** In the event of a Total Taking or Substantial Taking, the award shall be apportioned as follows:

**FIRST:** To Landlord and Tenant, as the case may be, payment for all out of pocket costs and expenses, including reasonable attorneys' fees, costs and disbursements, reasonably incurred in collecting the award;

**SECOND:** To Tenant that portion of the award attributable to the value of Tenant's leasehold interest in the Lease and all improvements thereon;

**THIRD:** To Landlord the fair market value of the Premises taken, less the value of Tenant's remaining leasehold interest;

**FOURTH:** To Tenant, the entire balance of the award.

e. **Temporary Taking.** In the event of a Temporary Taking that ends no later than five (5) years before the end of the Term, the Parties will meet and confer about a possible apportionment of the User Fee to be paid by Tenant to Landlord based on the average User Fee received by the Landlord for the prior 5-year period ("Taking Apportionment"), and this Lease shall remain in full force and effect.

f. Partial Taking. In the event of a Partial Taking, this Lease shall remain in full force and effect, covering the remainder of the Premises, except that this Lease shall be deemed amended such that the definition of the "Premises" shall include only that portion of the land described in Exhibit A attached that is not taken, and the User Fee shall be reduced to reflect, if any, the negative impact on Tenant's nonprofit operation as a result of such Partial Taking, which shall be determined with regard to the utility to Tenant of the area taken. Any User Fee adjustment shall become effective as of the earlier of (a) the date of the vesting of title in the condemning authority of the portion of the Premises taken, or (b) the date actual physical possession of the portion of the Premises is taken by the condemning authority.

In the event of a Partial Taking, Tenant, at its sole cost and expense subject to (and only to the extent of) receipt of an award by Tenant from the Taking agency specifically earmarked for severance damages, and Tenant's offset against such specific award of all costs incurred in procuring such award, shall either (i) restore the Building (together with any New Buildings) to a complete architectural unit, consistent with the requirements of this Lease, to the maximum extent feasible, or (ii) demolish and remove all or a portion of the Building (and any New Buildings) situated on the portion of the Premises not taken and restore such portion to a clean and neat condition. For the purposes of this Section, "de minimus" is defined as a Taking of two percent (2%) or less of the Premises.

i. Award on Partial Taking. In the event of a Partial Taking, the award shall be applied equally to the demolition and removal of New Project as well as the restoration, repair and replacement by Tenant of the Premises that were not taken.

ii. Partial or Temporary Taking in Last Five Years. If a Partial Taking occurs during the last five (5) years of the Term and the reasonably estimated cost of reconstruction work exceeds ten percent (10%) of the replacement value of the Building (and any New Buildings), or if a Temporary Taking occurs during the last five (5) years of the Term, Tenant shall have the right and option to treat the Partial Taking or Temporary Taking as a Substantial Taking by giving written notice thereof to Landlord no later than the earlier of: (a) the date of vesting of title in the condemning authority of the portion of the Premises taken, or (b) the date upon which the condemning authority takes physical possession of such portion of the Premises. If Tenant does give such notice the Partial Taking or Temporary Taking shall be considered as a Substantial Taking and the Taking shall be subject to the provisions of Section 19 c. and 19 d., above.

g. Participation in Settlement Negotiations. Landlord and Tenant shall both have the right to participate in the negotiation, settlement or compromise of all awards, except for Temporary Taking awards. Tenant shall have the sole right to negotiate, settle and compromise any award for a Temporary Taking.

h. Survival. Landlord's and Tenant's rights and obligations under this Section 18, including their rights to receive proceeds, shall survive any termination of this Lease.

21. Assignment, Transfer, Subletting.

a. Definition of Transfer; Notice. "Transfer" means Tenant's assignment, sublease, transfer, or conveyance of all, or any portion, of its interest in the Premises or this Lease, whether the same occur voluntarily, involuntarily, by operation of law, or otherwise. Tenant shall promptly notify Landlord (not later than thirty (30) days after such change) of any and all changes in the ownership of Tenant or of any and all changes of which Tenant is aware of Tenant's constituent members or partners.

b. No Transfer Without Consent. Except as otherwise provided in Section 21d.iii, below, Tenant may only transfer all or a portion of its interest in the Premises or this Lease to a mission compatible (i.e., relating to science and/or nature and animals) non-profit third party user upon Landlord's prior written consent, which shall not be withheld or delayed unless the Landlord reasonably determines that the proposed transferee lacks the required financial capacity or is not mission compatible with the Landlord and the Tenant. The Landlord shall only consider the financial integrity, as well as the mission compatibility of the third-party user in its decision to provide consent. Each Transferee shall comply with all requirements set forth elsewhere in this Lease. No voluntary or involuntary assignee, sublessee, or successor in interest of Tenant pursuant to a Transfer shall acquire any rights or powers under this Lease except as expressly set forth herein, and any Transfer without Landlord's consent shall constitute an Event of Default and shall be voidable at Landlord's option.

c. Procedure.

i. Transfer Request. With respect to each Transfer as to which Landlord's approval is required hereby, Tenant shall send to Landlord written request for Landlord's approval of the Transfer (a "Transfer Request") specifying the name and address of the proposed transferee and its legal composition (if applicable). Each Transfer Request shall be accompanied by all of the following:

1. An audited financial statement (or if no audited financial statement is available, a reviewed financial statement) of the proposed transferee for the three most recent calendar or fiscal years prepared in accordance with generally accepted accounting procedures and principles by a nationally or regionally recognized certified public accounting firm, certified as true and correct by the proposed transferee, sufficiently current and detailed to permit evaluation of the proposed transferee's assets, liabilities and net worth;

2. A description of the nature of the interest proposed to be transferred, the portion or portions of the Premises affected by the Transfer, and the proposed effective date of such Transfer;

3. A true and complete copy of the proposed Assumption Agreement described in Section 20g, below;

4. A complete history of the proposed transferee describing its background, its current non-profit operations and the background of the principals or personnel to be involved in the day to day operation and stating whether the proposed transferee ever filed for bankruptcy or had projects that were foreclosed; and

5. A description of any litigation in which the transferee has been involved within the preceding sixty (60) months.

ii. Approval of Landlord. Within thirty (30) days following receipt of all the information referred to in Section 20c.i, above, Landlord shall approve or disapprove a Transfer Request, and if Landlord disapproves the Transfer Request, it shall provide a reasonably detailed written statement of the reasons for the disapproval. If Landlord fails to give Tenant written notice of its approval or disapproval within the thirty (30) day period, Tenant will send a second notice to Landlord, then if Landlord again fails to respond to Tenant in writing on or before the tenth (10<sup>th</sup>) day after Landlord's receipt of the second notice, Landlord will be deemed to have approved the Transfer Request. Tenant shall pay the reasonable expenses, fees and charges of any accountants, attorneys (including internal Landlord staff) and necessary consultants hired by Landlord to review and assess any proposed transferee.

iii. **Exception to Consent Requirement.** Tenant shall not be required to obtain Landlord's consent to a Transfer to a wholly owned subsidiary. In order for a Transfer to a wholly owned subsidiary to be exempt from the requirement for Landlord's consent, at least thirty (30) days before the effective Transfer date: (i) Tenant shall notify Landlord of the pending Transfer; (ii) Tenant shall provide Landlord with reasonably comprehensive documentation establishing the subsidiary relationship between Tenant and the proposed assignee; (iii) Tenant shall provide Landlord with all information Landlord reasonably requests; (iv) Tenant shall deliver to Landlord a copy of the fully signed transfer documented; and (v) Tenant shall deliver to Landlord an assumption agreement in form reasonably acceptable to Landlord signed by Tenant and by the transferee.

d. **Threshold Criteria for Transfer.** Although Landlord may withhold its consent to a proposed Transfer on any reasonable basis, Landlord shall be deemed to be reasonable in withholding its consent to a proposed Transfer if any of the following are not satisfied:

i. Tenant delivers to Landlord an audited financial statement (or if no audited financial statement is available, a reviewed financial statement) of the proposed transferee for the three most recent calendar or fiscal years prepared in accordance with generally accepted accounting principles by a nationally or regionally recognized certified accounting firm demonstrating that the proposed transferee is a viable, going concern with sufficient financial ability to own, operate and manage the Premises;

ii. The proposed transferee shall have a reputation and experience comparable to the transferor's reputation and experience; and

iii. The use of the Premises after the Transfer shall remain mission compatible with the County Property.

e. **Indemnity.** Tenant hereby agrees to indemnify and defend Landlord against, and hold it harmless from, any loss (including penalties, fines, reasonable counsel fees and disbursements) in connection with a claim or action by a transferee or other third party which arises out of Tenant's actions or failure to act with respect to a Transfer including Tenant's breach or default under any agreement relating to the Transfer. Tenant also hereby agrees to indemnify and defend Landlord against, and hold it harmless from, any loss (including penalties, fines, reasonable counsel fees and disbursements) arising out of a claim or action by a subtenant or otherwise arising in connection with subletting. These indemnities shall not apply to any loss caused by Landlord's default under this Lease or Landlord's gross negligence or willful misconduct.

f. **Involuntary and Other Transfers.** Without limiting any other restrictions on Transfer contained in this Lease, no interest of Tenant in this Lease or the Premises shall be assignable in the following manner:

i. Under an order of relief filed, or a plan of reorganization confirmed, for or concerning Tenant by a bankruptcy court of competent jurisdiction under the federal bankruptcy act or under the laws of the State of California, whereby any interest in this Lease or the Premises is assigned to any Party which does not qualify as an approved transferee pursuant to this Lease unless such order is filed or such plan is confirmed in connection with an involuntary proceeding brought against Tenant and Tenant reacquires such transferred interest within forty five days after the date such order is filed or such plan is confirmed;

ii. If Tenant assigns substantially all of its assets for the benefit of its creditors;

iii. If an order of attachment is issued by a court of competent jurisdiction, whereby any interest in this Lease or the Premises or substantially all of Tenant's assets are attached by its creditors and such order of attachment is not stayed within forty five days after the date it is issued; or

iv. If a lien against any interest of Tenant in this Lease or the Premises is foreclosed so that such interest is vested in a Party other than Tenant.

g. Assumption Agreement. No Transfer involving Tenant's assignment, transfer or conveyance of all or any portion of its interest in this Lease, whether an Approved Transfer or one to which Landlord has consented, shall be effective until Landlord shall have received an assumption agreement, executed by the transferor and the proposed transferee, in form reasonably acceptable to Landlord.

22. **Default**.

a. Tenant Default. Tenant shall be in default under this Lease on the occurrence of any of the following ("Events of Default"):

i. Monetary Obligation. Tenant fails to pay any monetary obligation when due, and such failure shall continue for ten (10) working days after Tenant receives Notice of Breach as described herein, or

ii. Failure to Carry Insurance. Tenant fails to continuously maintain insurance coverage in accordance with Section 14 and Tenant fails to remedy the default within thirty (30) days after Tenant receives Notice of Breach;

iii. Transfer. Tenant Transfers all or any portion of Tenant's interest in the Premises or in this Lease in violation of the provisions of Section 20; or

iv. Any failure to continuously operate the Facility at the Premises for more than sixty (60) consecutive days, excepting closures (a) mandated by applicable laws, or due to Landlord's closure of the Park, (b) in connection with any Major Renovation or other material construction at the Premises, and/or (c) relating to any approved assignment or sublease transaction; or

v. Any other basis identified as a default or breach under the terms of this Lease, if such default or breach continues for thirty (30) calendar days after Tenant receives Notice of Breach; provided, however, that if such failure to pursue construction cannot be cured within thirty (30) calendar days, then it shall not be an Event of Default unless Tenant fails to commence within thirty (30) calendar days after it receives the Notice of Breach to cure the same or, thereafter, having begun to cure fails to prosecute the curing of such default continuously, with due diligence.

b. Notice and Opportunity to Cure.

i. Notice of Breach. If required by another section of this Lease, a Party shall deliver to the non performing Party a written request to perform or remedy (the "Notice of Breach"), stating clearly the nature of the obligation which such non performing Party has failed to perform. If Tenant is afforded a cure period for such failure, the Notice of Breach shall state the applicable cure period, if any, provided hereunder.

ii. Failure to Give Notice of Breach. The failure of a Party to give, or delay in giving, Notice of Breach shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Lease, any failures or delays by either Party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delays by either Party in asserting any of its rights and remedies shall not deprive such Party of the right to institute and maintain any actions or proceedings which it may deem appropriate to protect, assert or enforce its rights or remedies.

iii. Tolling for Dispute Resolution. Notwithstanding anything in this Lease to the contrary, there shall be no Event of Default, with respect to any matter that is the subject of ongoing mediation.

c. Remedies Upon Default.

i. Landlord's Remedies. If an Event of Default occurs, Landlord shall have the following remedies, in addition to all other rights and remedies provided by law or otherwise provided in this Lease to which Landlord may resort cumulatively or in the alternative:

1. Landlord Right to Continue Lease. Landlord may elect to keep this Lease in effect and to enforce by an action at law or in equity all of its rights and remedies under this Lease, including (i) the right to recover any User Fee as it becomes due by any appropriate legal action, and (ii) the right to make payments required of Tenant or perform Tenant's obligation and be reimbursed by Tenant for the cost thereof. For so long as this Lease continues in effect, Landlord may enforce all of Landlord's rights and remedies under this Lease, including the right to recover any User Fee as it becomes due.

2. Terminate. Landlord may terminate this Lease by giving Tenant written notice of termination, in which event this Lease shall terminate on the date set forth for termination in such notice. Any termination under this Section shall not relieve Tenant from its obligation to pay sums then due Landlord or from any claim against Tenant for damage previously accrued or then accruing. Upon Lease termination hereunder, in accordance with applicable law Landlord may re-enter the Premises and take possession thereof, and, except as otherwise provided herein, remove all persons and property therefrom, and store such property at Tenant's risk and for Tenant's account, and Tenant shall have no further claim thereon or hereunder.

3. Landlord Rights to Perform. Upon the occurrence and continuance of an Event of Default, and without waiving or releasing Tenant from any obligation of Tenant hereunder, Landlord may (but shall not be required to) make such payment or perform such act on Tenant's part to be made or performed under this Lease, or pay for and maintain such insurance coverage required under Section 15, and Landlord may enter any Major Construction project for such purpose and take all such action thereon as may be reasonably necessary therefor. All sums paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any such act shall be paid to Landlord within thirty (30) days after receipt of Landlord's demand therefor and documentation of costs incurred.

ii. Damages Upon Termination. If Landlord terminates this Lease by reason of any Event of Default, Landlord may recover from Tenant damages in an amount as set forth in California Civil Code Section 1951.2 ("CC 1951.2") as in effect on the Effective Date. For purposes of

computing damages pursuant to CC 1951.2, the term "rent" means the User Fee and any and all other amounts Tenant is liable to pay Landlord hereunder. Landlord's CC 1951.2 damages shall include:

1. The worth at the time of award of the unpaid User Fee and and other rent which is due, owing and unpaid by Tenant to Landlord at the time of termination; and

2. All other amounts necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things are likely to result therefrom, including (i) expenses for cleaning, repairing and restoring the Premises for re-letting; (ii) and all costs (including attorneys' fees) of repossession; and (iii) all costs of removing persons or property from the Premises.

iii. Injunction. Upon the occurrence of an Event of Default, Landlord shall have the right to petition a court of competent jurisdiction for injunctive relief. Tenant's failure for any reason to comply with an injunction ordered by a court shall constitute an Event of Default under this Lease.

d. Remedies Cumulative. No remedy in this Section 21 shall be considered exclusive of any other remedy. Each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute Landlord may exercise every power and remedy given by this Lease from time to time and as often as occasion may arise or as Landlord may deem expedient, subject to any limitations contained in this Lease.

e. No Election of Remedies. The rights given in this Section 21 to receive, collect or sue for any unpaid User Fee and other amounts owed by Tenant hereunder or to enforce the terms, provisions and conditions of this Lease, or to prevent the breach or non-observance thereof, or the exercise of any such right or of any other right or remedy hereunder, shall not in any way affect or impair or toll the right or power of Landlord upon the conditions and subject to the provisions in this Lease to terminate Tenant's right of possession because of any Event of Default.

f. Survival of Obligations. All obligations that accrue prior to Lease Termination shall survive Lease Termination.

g. Landlord's Default. If Landlord fails to adhere to any of the terms of this Lease and/or to timely and properly perform any of its obligations under this Lease, and such failure continues for thirty (30) days after Landlord receives a Notice of Breach, Landlord shall be in default under this Lease ("Landlord Default"); provided, however, that if Tenant notifies Landlord of any dangerous condition adjacent to the Premises (e.g., unstable trees), Landlord shall cure or commence to cure such condition within three (3) days following receipt of Tenant's notice, failing which Tenant may avail itself of the self-help remedy (but not termination rights) provided in this Section 21g. If a default with due diligence cannot be cured within thirty (30) calendar days, then there shall be a Landlord Default only if Landlord fails to commence within thirty (30) calendar days after it receives the Notice of Breach to cure the same or, thereafter, having begun to cure fails to prosecute the curing of such default continuously, with due diligence. In the event of a Landlord Default, Tenant shall be entitled to any and all remedies it may have at law or in equity, including termination of this Lease. Landlord shall not be in default of its obligations if it is unable to meet its obligations due to closures caused by labor strikes, natural disasters, pandemics, or other matters outside of its control.

23. Leasehold Mortgage.

a. Definitions. The following terms shall have the following meanings:

i. Approved Lender. "Approved Lender" means any Institutional Lender holding a first lien leasehold mortgage.

ii. Institutional Lender. "Institutional Lender" means any one or combination of the following lending institutions, provided that such institution is authorized or qualified in the State of California to make the proposed loan and is at the time actively making loans of the same type, in similar amounts and secured by similar properties: a commercial or savings bank; a trust company; an insurance company; a savings and loan association; a building and loan association; a pension, retirement or welfare fund; an endowment fund or foundation; an investment banking firm; or any other lender reasonably satisfactory to Landlord. The foregoing notwithstanding, in no event shall Tenant, or any successor to Tenant, be an acceptable Institutional Lender.

iii. Landlord's Estate. "Landlord's Estate" means Landlord's fee interest in the Premises and Landlord's reversionary rights in any Major Construction and other improvements owned by Tenant during the Term, and the leasehold estate.

iv. Leasehold Encumbrance. "Leasehold Encumbrance" means any deed of trust, mortgage, assignment, security interest, lien or other encumbrance in or against Tenant's interest in this Lease, any Major Construction and/or the Personal Property.

v. Leasehold Lender. "Leasehold Lender" means the holder or beneficiary under any Leasehold Encumbrance.

vi. Loan. "Loan" means a secured loan made to Tenant in connection with any Major Construction.

vii. Loan Documents. "Loan Documents" mean the loan agreement, promissory note, deed of trust, assignment, security agreement, as well as any other documents evidencing Landlord's obligations with respect to any applicable Loan.

b. Leasehold Encumbrances. Tenant shall have the right, at any time and from time to time during the Term, to procure one Leasehold Encumbrance, provided that either: (a) each of the applicable requirements of this Section is satisfied or (b) Landlord grants its prior written consent to the Loan or other arrangement, which it shall not unreasonably withhold. Before entering into a Leasehold Encumbrance, Tenant shall give Landlord written notice and shall accompany the notice with a true and correct copy of the Leasehold Encumbrance and related Loan Documents, or shall procure Landlord's prior written consent if such proposed Loan does not satisfy each of the applicable requirements of this Section 22. Any Leasehold Encumbrance shall be subject to the following terms and conditions:

i. No Merger. So long as any Leasehold Encumbrance shall encumber Tenant's leasehold estate, there shall be no merger of this Lease or any interest in this Lease, nor of the leasehold estate created hereby, with the fee estate in the Premises.

ii. Non-Subordination of Fee. Nothing in this Lease shall be construed as an agreement by Landlord to subordinate its fee interest in the Premises or its right to User Fee or other payments hereunder or any other right of Landlord herein. Except as expressly set forth in this Section 22 or elsewhere in this Lease, no Leasehold Encumbrance shall impair Landlord from enforcing its rights and remedies under this Lease or provided by law.

iii. Institutional Lender. Leasehold Encumbrances are to be originated only by Institutional Lenders unless otherwise agreed in writing by Landlord in the exercise of its sole discretion.

iv. Limitations on Leasehold Encumbrance. Tenant may enter into a Leasehold Encumbrance only if all of the following requirements are satisfied at the time the Leasehold Encumbrance is signed:

1. The term of the Leasehold Encumbrance shall expire no later than twelve months before the expiration of the then Term (excluding any unexercised options), provided, however, that any Leasehold Encumbrance will terminate immediately upon termination of the Lease prior to the end of the Lease Term;

2. The obligation that is secured by the Leasehold Encumbrance shall be payable in equal monthly installments of principal and interest sufficient to fully amortize the principal over its term, or under such other payment schedule sufficient to fully amortize the principal over its term as may be reasonably acceptable to Landlord, taking into account the remaining duration of the Term; and

3. At the time the Leasehold Encumbrance is recorded, Tenant shall be in full compliance with all the terms of this Lease and there shall exist no condition or event that with the passage of time will become an Event of Default.

c. Leasehold Lender Protections. Landlord and Tenant expressly agree, that a Leasehold Lender making a Loan secured by a Leasehold Encumbrance shall have the following rights and protections:

i. Notices. Landlord shall give the Leasehold Lender a duplicate copy of any and all notices Landlord may from time to time give to or serve on Tenant pursuant to this Lease, such duplicate copy to be given concurrently with the notice given to or served on Tenant, so long as Tenant or the Leasehold Lender shall at all times keep Landlord informed, in writing, of the name and mailing address of the Leasehold Lender and any changes in the Leasehold Lender's mailing address. Landlord shall have no liability to the Leasehold Lender for any failure to give any such notices to the Leasehold Lender, but the Leasehold Lender shall not be deprived of any of its rights hereunder on account of any such failure, and as between Landlord and the Leasehold Lender only, no notice of default shall be effective as against the Leasehold Lender, or operate to activate any periods of time within which the Leasehold Lender may be required or elect to act hereunder, unless and until Landlord gives the Leasehold Lender a copy of such notice. Any notices or other communications required or permitted by this or any other provision of this Lease or by law to be served on or given to the Leasehold Lender by Landlord may be delivered in the manner specified in Section 28, below. Tenant shall deliver to Landlord, promptly after execution, true and complete copies of the Leasehold Encumbrance and all other documents given to evidence or secure the Loan, and any subsequent amendments, modifications or extensions thereof.

ii. Modification or Termination of Lease. No voluntary termination or surrender of this Lease by Tenant shall be effective without the written consent of the Leasehold Lender. Except for the expiration of the Lease Term, or any termination of this Lease by Landlord due to an Event of Default in accordance with the provisions of Section 22, no merger of this Lease and the fee estate in the Premises shall occur on account of the acquisition by the same or related Parties of the leasehold

estate created by this Lease and the fee estate in the Premises without the prior written consent of the Leasehold Lender.

iii. Leasehold Lender Remedies. Landlord agrees that, to the extent agreed by Tenant and the Leasehold Lender, the Leasehold Lender shall have the right at any time during the Term to:

1. do any act or thing required of Tenant under this Lease, and any such act or thing done and performed by such Leasehold Lender shall be as effective to prevent a termination of this Lease and a forfeiture of Tenant's rights under this Lease as if done by Tenant itself; and/or

2. realize on the security afforded by the leasehold estate by exercising foreclosure proceedings or power of sale or other remedy afforded at law or in equity, or under any Leasehold Encumbrance, and pursuant to such proceedings to: (A) transfer, convey or assign Tenant's leasehold interest to any purchaser meeting the requirements of Section 21 at any foreclosure sale, whether the foreclosure sale is conducted pursuant to court order or pursuant to a power of sale contained in the Leasehold Encumbrance; or (B) acquire and succeed to the interest of Tenant under this Lease by virtue of any foreclosure sale, whether the foreclosure sale is conducted pursuant to court order or pursuant to a power of sale contained in the Leasehold Encumbrance, or by assignment or other conveyance in lieu of foreclosure.

iv. Leasehold Lender Right to Forestall Termination. Landlord agrees that, to the extent agreed by Tenant and the Leasehold Lender, the Leasehold Lender may forestall termination of this Lease by Landlord by commencing foreclosure proceedings (whether judicially or by exercise of a power of sale) within thirty (30) calendar days after Landlord gives Leasehold Lender a notice of default, so long as: (i) Leasehold Lender, following commencement of such foreclosure proceedings, diligently pursues such proceedings to completion (subject to normal and customary postponements and compliance with any judicial or statutory stays or orders, including without limitation any stays or orders arising in connection with any bankruptcy or insolvency proceedings affecting Tenant, relating to the timing of or the right to conduct foreclosure or other lien enforcement proceedings); and (ii) Leasehold Lender performs all of the terms and conditions of this Lease requiring payment or expenditure of money by Tenant, including the payment of all unpaid Under Fees and other amounts due hereunder, if any, until the foreclosure proceedings are complete or are discharged by redemption, satisfaction, payment or conveyance of the leasehold estate to Leasehold Lender or to any other person or Party.

v. Leasehold Lender Liability. The Leasehold Lender shall not be liable to Landlord as Transferee of Tenant's interest under this Lease unless and until such time as the Leasehold Lender acquires all rights of Tenant under this Lease through foreclosure or other proceedings in the nature of foreclosure, by deed or voluntary assignment in lieu thereof, or as a result of some other action or remedy provided by law or by any Leasehold Encumbrance. Subject to compliance with the provisions of Section 23, at no time shall the Leasehold Lender be liable for any breach or default by Tenant prior to the time the Leasehold Lender acquires all rights of Tenant hereunder. Subject to compliance with the provisions of Section 21 relating to a subsequent Transfer by the Leasehold Lender, in its capacity as a successor Tenant, of its interest in this Lease, the Leasehold Lender shall remain liable to Landlord for the obligations of the Tenant under this Lease only so long as the Leasehold Lender remains the owner of the leasehold estate, and following such Transfer by the Leasehold Lender, the Leasehold Lender shall have no further obligation or liability to Landlord except solely for obligations and liabilities arising or accruing prior to the effective date of the Transfer. In the event that the Leasehold Lender subsequently

Transfers its interest under this Lease after acquiring all rights of Tenant hereunder and in connection with any such Transfer the Leasehold Lender takes back a mortgage, deed of trust, security agreement, lien or other encumbrance in or against the Tenant's interest in this Lease, any Major Construction and/or the Personal Property to secure a portion of the purchase price payable to Leasehold Lender for such Transfer, then such mortgage, deed of trust, security agreement, lien or other encumbrance shall also constitute a Leasehold Encumbrance and the Leasehold Lender shall be entitled to the benefits of this Lease intended for the benefit of the holder of a Leasehold Encumbrance. Furthermore, any such Leasehold Lender transfer shall be subject to the same consent terms and conditions as provided in Section 21.

d. Notices to Landlord. Any Leasehold Encumbrance shall by its terms provide that the holder of the Leasehold Encumbrance shall give Landlord written notice of any default of Tenant under such Leasehold Encumbrance contemporaneously with the giving of such notice to Tenant; provided, however, that no failure by the Leasehold Lender to give such notice shall deprive it of any rights or benefits provided by this Section 22 or elsewhere in this Lease. Tenant shall give Landlord a copy of any notice of default received from any Leasehold Lender promptly after receipt thereof.

e. No Landlord Liability. Any Leasehold Encumbrance shall provide that Landlord shall have no personal liability or obligation for the repayment of any Leasehold Mortgage or for the performance of any obligations under the Leasehold Encumbrance or any of the documents or instruments which evidence, govern or secure the Leasehold Encumbrance.

24. Dispute Resolution. The dispute resolution provisions set forth in this Section shall apply to all disputes between the Parties relating in any way to this Lease, any Major Construction, or the Premises.

a. Meet and Confer. The Parties shall endeavor to resolve any disputes relating to this Lease through reasonable business like dispute resolution procedures without resort to litigation. Accordingly, if any dispute arises, either Party may call a special meeting of the Parties by written request specifying the nature of the matter to be addressed. The meeting shall be held at the offices of Landlord, and shall be attended by representatives of Landlord and Tenant who have authority to resolve the dispute. The representatives shall confer in a good faith attempt to resolve the dispute until they either succeed or one or both Parties concludes that the dispute will not be resolved through additional meetings.

b. Mediation. If a matter in dispute is not resolved through the special meeting process, either Party may initiate mediation by delivering written notice to the other. Both Parties shall attend and participate in the mediation, which shall be non-binding and without prejudice to any other rights or remedies which any Party may have. Unless the Parties agree otherwise, the mediation proceedings shall be conducted by an independent mediator acceptable to both Parties who shall be a retired judge of the California State Courts. If the Parties are unable, within 30 days after the notice initiating the mediation is delivered, to agree upon a mediator, then the mediator, shall be chosen by the "Selection Process" described below. The costs of the mediation shall be shared equally by both Parties to the mediation, except that each Party shall pay the fees, costs and expenses of its own legal counsel and consultants in connection with the mediation. Any voluntary settlement reached as a result of the mediation process shall be reduced to writing.

25. Selection Process. If the Parties are unable to agree upon a mediator, then the Party shall be selected in accordance with the following procedure. If the Parties are unable to agree upon the

mediator (the "Neutral Party"), as the case may be, within the time period designated for such agreement, then upon written request of either Party, both Parties shall submit in writing to the other Party the names of its two candidates for Neutral Party. The two names shall be delivered to the other Party within ten days after the date of the notice for submission of names. Each Party shall have the right, by written notice to the other Party delivered within ten days after receipt of the two names, to eliminate one of the names submitted by the other Party. After the expiration of the ten (10) day elimination period, Landlord shall write the names remaining (one name, at least, submitted by each Party) on identical papers and Landlord shall fold the papers so that the names are not visible. The names shall be placed in a receptacle and in the presence of representatives of both Landlord and Tenant, a representative of Tenant shall draw a name. The name on the paper selected shall be the Neutral Party for purposes of resolving the then extant dispute.

26. **Estoppel Certificates.**

a. **Tenant Estoppel Certificate.** At any time and from time to time, within thirty (30) calendar days after receipt of a written request by Landlord, Tenant shall deliver to Landlord a statement in writing certifying (i) that this Lease is unmodified and in full force and effect (or if there shall have been modifications that the same is in full force and effect as modified and stating the modifications); (ii) the dates to which any deposits or charges have been paid; and (iii) stating whether or not, to the current actual knowledge of Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which Tenant may have knowledge. The estoppel certificate may be relied upon by the receiving Party, and any prospective lender, lessee or transferee.

b. **Landlord Estoppel Certificate.** At any time and from time to time, within thirty (30) calendar days after receipt of a written request by Tenant, Landlord shall deliver to Tenant a statement in writing certifying (i) that this Lease is unmodified and in full force and effect (or if there shall have been modifications that the same is in full force and effect as modified and stating the modifications); (ii) the dates to which the User Fee and any other deposits or charges have been paid, and (iii) stating whether or not, to the current actual knowledge of Landlord, Tenant is in default in the performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default of which Landlord may have knowledge. The estoppel certificate may be relied upon by the receiving Party, and any prospective lender, lessee or transferee.

27. **Invalidity of Particular Provisions.** If any term or provision of this Lease or the application thereof to any person or circumstance shall be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

28. **Notices.** Any notice, demand, request or other communication concerning this Lease between Landlord and Tenant shall be in writing and shall not be effective for any purpose unless (i) personally served; (ii) delivered by delivery service; or (iii) mailed by certified or registered mail, postage prepaid, return receipt requested addressed as follows:

If to Landlord:

County of San Mateo  
Attention: Parks Director  
455 County Center, 4th Floor

Redwood City, CA 94063

*with a copy to:*

County of San Mateo  
Attention: County Counsel  
Hall of Justice and Records  
400 County Center, 6<sup>th</sup> Floor  
Redwood City, CA 94063

If to Tenant:

CuriOdyssey  
c/o Aragon Burlingham, Executive Director  
1651 Coyote Point Drive  
San Mateo, CA 94401

Notices given as described above shall be deemed delivered when:

- a. If personally served, when delivered in accordance with the provisions of California Code of Civil Procedure for service of process on the type of entity to which the writing is addressed.
- b. If served by delivery service, when signed for in the office of the Party to whom directed.
- c. If mailed, as required above, upon the first to occur of (i) receipt by the addressee as evidenced by a "return receipt" executed by a person in the office of addressee or (ii) on the date delivery is first attempted, as reflected by the records of the U.S. Postal Service.

Any Party may change its address set forth above by notice given in the manner set forth above.

29. **Quiet Enjoyment.** Landlord covenants and agrees that Tenant, upon payment of the User Fee and all other charges under this Lease and observing and keeping all covenants, agreements and conditions of this Lease on its part to be observed and kept, shall have quiet enjoyment of the Premises during the term of this Lease without hindrance or molestation by anyone claiming by or through Landlord, subject, however, to the exceptions, reservations and conditions of this Lease.

30. **Definitions.** For purposes of this Lease, the following terms shall have the following meanings:

a. **Default Rate.** "Default Rate" shall mean interest calculated at an annual rate equal to three percent (3%) in excess of the rate of interest most recently announced by Bank of America, NT & SA (or its successor bank) at its San Francisco office as its "reference rate" but in no event more than the maximum rate of interest permitted by law. If The Bank of America or its successor no longer issues a "reference rate," the legal rate of interest set forth under California law shall be used.

b. **Unavoidable Delays.** "Unavoidable Delays" means delays due to strikes, acts of God, acts of the elements, inability to obtain labor, materials or utilities, governmental restrictions or moratoria, enemy action, earthquakes, civil commotion, war, failure of Landlord to comply with Lease provisions, which failure results in delay to Tenant, unavoidable casualty or similar causes beyond the

reasonable control of Tenant, but financial inability of Tenant to perform shall not be an Unavoidable Delay.

31. **Miscellaneous.**

a. **Construction of Language.** In all cases the language in all parts of this Lease shall be construed according to its fair meaning and not strictly for or against Landlord or Tenant.

b. **Captions.** The word titles contained herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as any part of this instrument.

c. **Successors and Assigns.** Subject to the provisions hereof, this Lease shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns, and wherever a reference in this Lease is made to either of the Parties hereto such reference shall be deemed to include, wherever applicable, also a reference to the successors and assigns of such Party, as if in every case so expressed.

d. **Governing Law.** This Lease shall be construed and enforced in accordance with the laws of the State of California.

e. **Amendments in Writing.** No amendment or modification hereof shall be effective for any purpose unless in writing signed by Landlord and Tenant.

32. **Non-Discrimination.** That there shall be no discrimination against or segregation of any person or group of persons on account of age, race, color, creed, religion, sex/gender, gender identity, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, marital status, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, operation, tenure, or enjoyment of the Premises.

33. **Disclaimer of Partnership.** The relationship of the Parties hereto is that of landlord and tenant, and it is expressly understood and agreed that Landlord does not as a result of this Lease in any way nor for any purpose become a partner of Tenant or a joint venturer with Tenant in the conduct of Tenant's business or otherwise. This Lease is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or association as between Landlord and Tenant.

33. **Disclaimer of Lender/Borrower Relationship.** The relationship of the Parties hereto is that of landlord and tenant, and it is expressly understood and agreed that Landlord does not, as a result of this Lease, in any way nor for any purpose, become a lender to Tenant. It also is expressly understood that this Lease is not intended to, and shall not be construed to, create the relationship of lender and borrower.

34. **Entire Agreement.** This Lease contains the entire agreement between the Parties hereto relative to the leasing transaction covered hereby. All previous correspondence, communications, discussions, agreements, understandings or proposals and acceptances thereof between the Parties or their representatives, whether oral or written, are deemed to have been integrated into and superseded by this Lease and are of no further force and effect.

35. **Landlord's Right to Enter the Premises.** Landlord and its agents may enter the Premises from time to time with reasonable notice (except for emergencies in which case no notice shall

be required) to inspect the same, to post notices of nonresponsibility and similar notices; provided that in connection with such entry, Landlord shall use best efforts to minimize interference with Tenant.

36. **Authority to Execute Documents.** By execution of this Lease, the Board of Supervisors of San Mateo County hereby grants:

a. **Decision Making Authority.** Grants to the County Manager or the designee of the County Manager the power and authority to make any decisions, grant any consents or provide extensions to the time periods described in this Lease. Any decision made by the County Manager or the designee of the County Manager shall be binding on the Landlord and any third party may rely on the County Manager's authority, or the authority of the designee of the County Manager, to so decide.

b. **Signature Authority.** Grants to the County Manager, or the designee of the County Manager, the power and authority to sign on behalf of the Landlord (and bind Landlord by such signing) all documents contemplated or necessitated by this Lease, including but not limited to a Memorandum of Lease, any Covenants, Conditions, and Restrictions, any temporary or permanent easements, rights of entry, licenses, any dedications required by the City of San Mateo or the County of San Mateo, any consents, estoppels, and/or any related documents.

c. **County Counsel Review.** The Board of Supervisors' delegations of authority contained in Section 36 are subject to review and approval by the County Counsel of all documentation as to form and legality.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease, through their officers or representatives thereunto duly authorized, as of the day and year first above written.

CURIODYSSEY, INC., a California nonprofit corporation

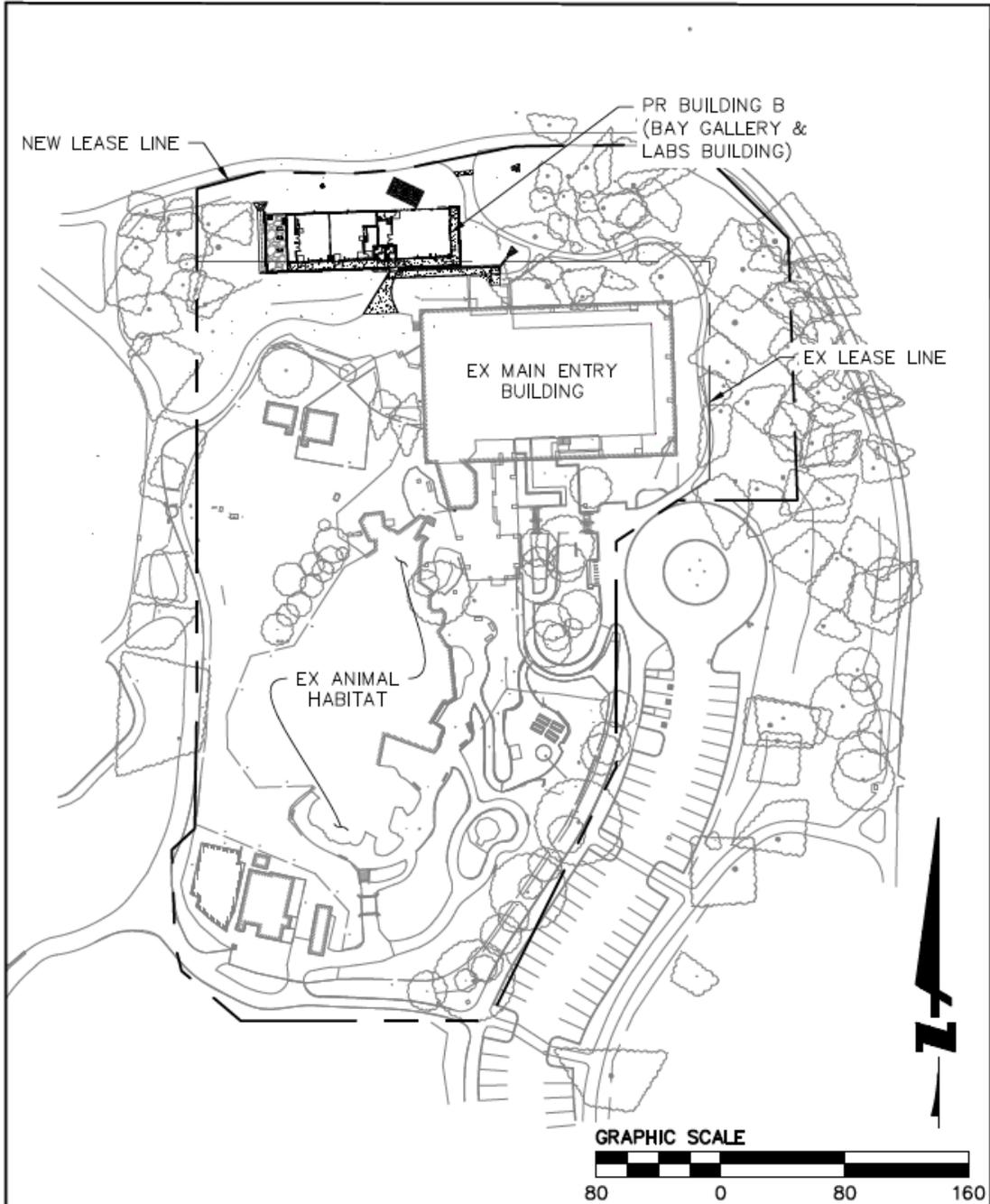
By: Aragon Burlingham  
Aragon Burlingham, Executive Director

By: Laurel M  
Laurel Miranda, Board of Directors Chair

COUNTY OF SAN MATEO

By: \_\_\_\_\_  
Don Horsley, President  
San Mateo County Board of Supervisors

EXHIBIT A



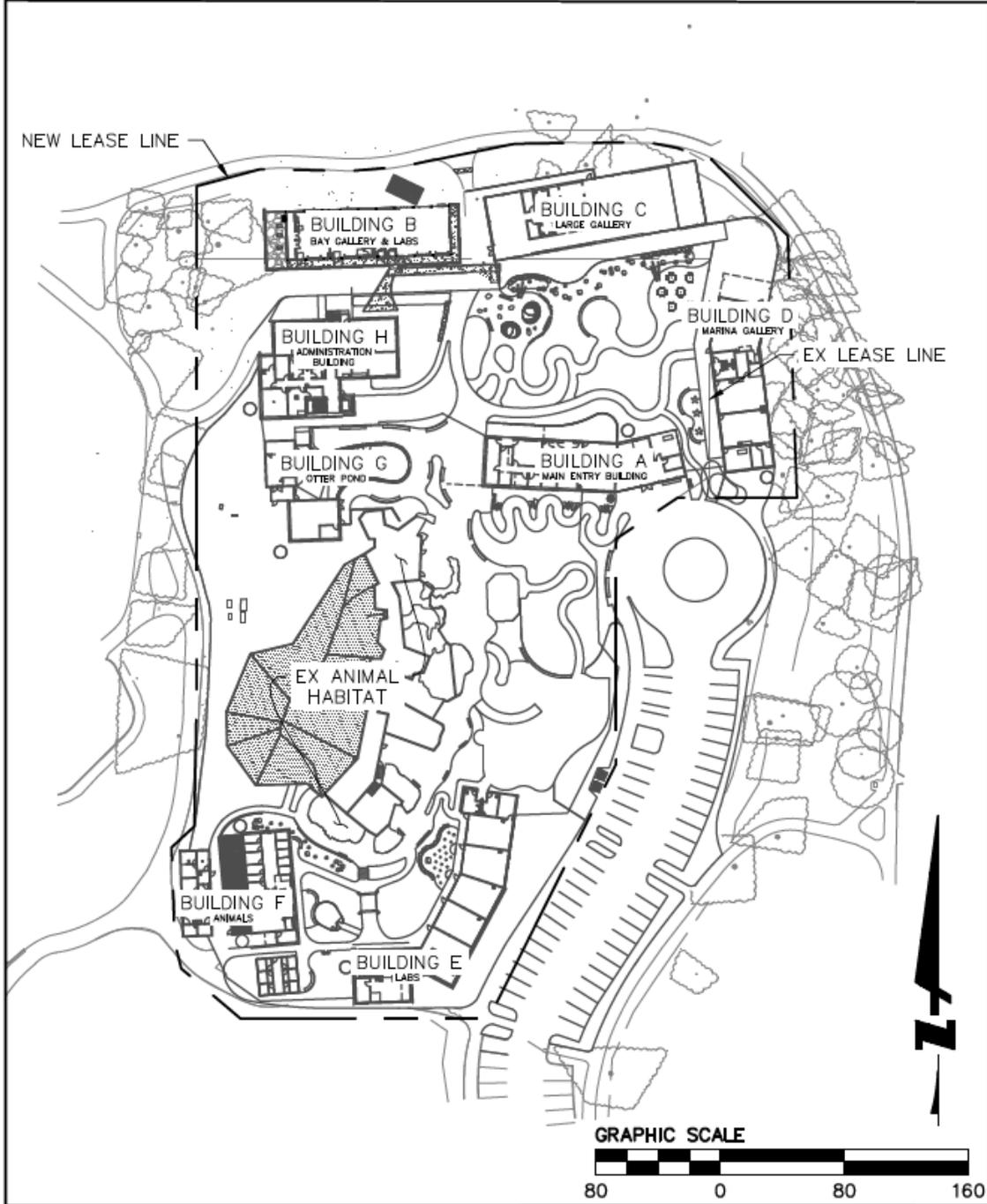
DRAWING NAME: j:\2020\201063\_Curiodyssey\JMP\END\EXHIBIT5\28-LeaseExhibit11x172\_0303-Exhibit1.dwg  
PLOT DATE: 03-03-22 PLOTTED BY: nos

**BKF**  
BKF ENGINEERS  
150 CALIFORNIA STREET  
SUITE 600  
SAN FRANCISCO, CA 94111  
(415) 930-7900  
www.bkf.com

**CURIODYSSEY LEASE EXHIBIT  
PR BAY GALLERY & LABS BUILDING  
ON EX SITE**

Drawn LAH                      Checked MAO                      Approved MAO  
Job No. C20201063              Date 3/4/22                      Sheet 1 of 2

EXHIBIT A-1



DRAWING NAME: J:\2020\201063\_Curiodyssey\ENVELO\RH\B\ITS\20-LeaseExhibitA\22\_0303-PR-FullSiteBuildout.dwg  
 PLOT DATE: 03-03-22 PLOTTED BY: hoi


**BKF ENGINEERS**  
 150 CALIFORNIA STREET  
 SUITE 600  
 SAN FRANCISCO, CA 94111  
 (415) 930-7900  
 www.bkf.com

**CURIODYSSEY LEASE EXHIBIT  
PR FULL CAMPUS BUILDOUT**

Drawn LAH                      Checked MAO                      Approved MAO  
 Job No. C20201063              Date 3/4/22                      Sheet 2 of 2

## EXHIBIT B



### Public Benefits for San Mateo County

**February 2022 – based on FY19 numbers (last full fiscal year before COVID)**

We provide mission compatible programs to San Mateo County and the region with private funding.

**Our Mission:** Inspire love for science and curiosity about the world to create a brighter future. As a science and wildlife center, CuriOdyssey helps children acquire the tools to deeply understand the changing world.

At CuriOdyssey, we treat kids like the geniuses they are. We give them the tools scientists use and let them loose to observe what is, ask “what if” and let the natural world answer their questions. We are almost 70 years strong and now, we are building the world’s premier serious science playground so we can give more kids the power of real science to take on the real-world challenges of the future. By learning to think like a scientist early on, our kids will grow up to ask questions, think critically and take the intelligent action we need.

**Our new campus for early science learning:** CuriOdyssey has begun construction of a new campus to create a world-class center for early science learning in San Mateo County. The first phase includes “Whooosh!,” a Magical Bridge-inspired playground, and the Bay Gallery & Labs, which will feature a new exhibit gallery, two new learning labs, and a sweeping view of the bay. The new campus will re-imagine the county treasure that is CuriOdyssey for the needs of the 21st century.

So, let’s build the future CuriOdyssey and give more kids the superpower of science.

### **Services Provided to the Community (Fiscal Year ending Sep 30, 2019)**

All programs/attendance at CuriOdyssey are subsidized with private dollars.

- 207,000 people engaged with CuriOdyssey (on and off-site)
- 687 children in summer camps that actively use Coyote Point Park
- 11,000 students and teachers visited on field trips (28% of them free of charge)
- 4,559 students attended education and wildlife workshops (including public programs homeschool)
- 2,451 visitors received reduced admissions
- Over 3,800 visitors attended 6 free community days
- 1,200 volunteers contributed 11,000 hours of service (equivalent to 5.8 full-time employees)
- 792 volunteers contributed 1,240 hours to remove 858 gallons of trash and recyclables from Coyote Point Park

- 480 nonprofits and community partners were gifted guest passes or memberships, including 281 schools
- Over 500 Discover and Go Library passes distributed

### **Collaborative Partnerships**

We provide programs free of charge to the underserved communities.

- Lead Schools — Science In Schools program, providing 4 science programs for K-1 students
- Big Brothers, Big Sisters—free entrance
- Boys and Girls Club—free science programs
- 5 Wildlife on Wheels provided for free (to LEAD school and Boys and Girls Club)
- CuriOdyssey on the Go presented at Bay Area Science Festival and AAAS
- San Mateo County Office of Education—partner with teacher training
- San Mateo County Leadership—host Environmental Leadership Day
- SFSU—Museum Studies Program
- Fatherhood Collaborative
- BioBlitz Day

### **Conservation**

- Bay Area Bobcat Project
- River Otter Ecology Project
- Urban Wildlife Research Project
- Ringtail Research Project
- Western Pond Turtle Ecology & Conservation
- Salt Marsh Harvest Mice Research Project at UC Davis
- Collaborated with UC Davis for an Endangered Species Day blog
- Shared WPT Ecology & Conservation content with AZA for World Turtle Day
- Bay Area FrogWatch Chapter
- Sustainability internship for 3 D-Tech interns
- AZA Party for the Planet Earth Day event
- Beach Cleanup (Spring and Fall)
- Marsh Restoration Project
- Increased conservation programming (Eco-Stewards)
- Started HEAT program (Highschool Environmental Action Team)
- Became Green Business Certified
- Set up a new Northern Pacific Tree Frog breeding pond

## **Promotion**

We actively promote CuriOdyssey at Coyote Point throughout the year through membership, social media and billboards. In the Summer of 2019, through digital media, we made 350,000 impressions. We cross promote all Coyote Point Park events.

## **Park Admissions**

Generate an estimated \$175,000 in Park entrance revenue.

## **San Mateo County Employment/ Job Training**

- CuriOdyssey at Coyote Point employs 43 staff (17 additional staff in summer)
- Leader in Training—CuriOdyssey provides job training for 22 young adults throughout the year.
- Keeper in Training—CuriOdyssey provides job training for 4 young adults throughout the year

## **CuriOdyssey Budget (FY19):**

- Revenue \$3.7M: 34% contributed and 66% earned
- Expenses \$4.1M: 78% program and 22% is administrative/fundraising

## **EXHIBIT C**

**Insurance:** The Contractor shall not commence work under this Contract until he has obtained all insurance required under this paragraph and such insurance has been approved by the County, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained. The Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract. Certificates of Insurance shall be filed with the County within **TEN (10) WORKING DAYS** after award of the contract. These certificates shall specify or be endorsed to provide that **THIRTY (30) CALENDAR DAYS'** notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modifications of the policy.

**A. Worker's Compensation and Employer's Liability Insurance**

The Contractor shall have in effect during the entire life of this Contract, Worker's Compensation and Employer's Liability Insurance providing full statutory coverage; and in case any work is sublet, the Contractor shall require all subcontractors similarly to provide Worker's Compensation and Employer's Liability Insurance to full statutory limits. In signing this Contract, the Contractor makes the following certifications, required by Section 1861 of the Labor Code:

“I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provisions before commencing the performance of the work of this Contract.”

**B. Liability Insurance**

The Contractor shall take out and maintain during the life of this Contract such Bodily Injury Liability and Property Damage Liability Insurance as shall comply with Section 7-1.12, “Indemnification and Insurance,” of the Standard Specifications and protect him/her and any subcontractor performing work covered by this Contract, from claims for damages for bodily injury, including accidental death, as well as from claims for property damage including third party property damage, to include coverage on property in the care, custody and control of the Contractor, and also including coverage for what are commonly known as the “X, C and U”

exclusions (having to do with blasting, collapse and underground property damage), which may arise from the Contractor's operations under this Contract, whether such operations be by himself/herself or by any subcontractor or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be **ONE MILLION DOLLARS (\$1,000,000)** combined single bodily injury and property damage for each occurrence. The County of San Mateo, *(name(s) of the specific special district(s) administered by the County of San Mateo), (other applicable agency other than the County of San Mateo)*, and its/*their* officers, agents, servants and employees, shall be named as additional insureds on any such policies of insurance, which shall also contain a provision stating that the insurance afforded thereby to the County of San Mateo, *(name(s) of the specific special district(s) administered by the County of San Mateo), (other applicable agency other than the County of San Mateo)*, and its/*their* officers, agents, servants and employees, shall be primary insurance to the full limits of liability of the policy, and that if the County of San Mateo, *(name(s) of the specific special district(s) administered by the County of San Mateo), (other applicable agency other than the County of San Mateo)*, or its/*their* officers and employees, have other insurance against a loss covered by such policy, such other insurance shall be excess insurance only.

**Such statements, mentioned above, shall be included on a separate endorsement to be submitted to the County with the Certificate of Insurance.**

**Such insurance shall include:**

- 1) Comprehensive General Liability..... \$1,000,000**
- 2) Motor Vehicle Liability Insurance..... \$1,000,000**

**C.** In case of the breach of any provision of this Article, the County, at its option, may take out and maintain at the expense of the Contractor, or subcontractor, such insurance as the County may deem proper and may deduct the cost of taking out and maintaining such insurance from any sums which may be due, or become due, to the Contractor, under this Contract.

**D.** Hold Harmless

The Contractor's attention is directed to Section 7-1.12, "Indemnification and Insurance," of the Standard Specifications.

The provisions contained in Section 7-1.12, "Indemnification and Insurance," of the Standard Specifications of the State of California, Department of Transportation, shall be applicable with the understanding that where said provisions specifically refer to the State of California, a department or division of the State or an official, officer or employee of the State, said provision shall be interpreted to refer to the County of San Mateo, *(name(s) of the specific special district(s) administered by the County of San Mateo), (other applicable agency other than the County of San Mateo)*, and all officers, agents, servants and employees thereof connected with the work, including but not limited to the Director of Public Works, their duly authorized representatives, other appropriate department, division, official, officer or employee of the County of San Mateo, *(name(s) of the specific special district(s) administered by the County of San Mateo), and (other applicable agency other than the County of San Mateo)*.

The provisions of Section 7-1.12A, "Indemnification," of the Standard Specifications are superseded by the following:

"To the full extent permitted by law, Contractor shall indemnify and save harmless the County, its officers, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of:

1. Injuries to or death of any person, including Contractor, its officers, employees and servants, or
2. Damage to any property of any kind whatsoever and to whomsoever belonging, or
3. Any sanctions, penalties or claims of damages resulting from Contractor's failure to comply with applicable laws, or
4. Any other loss or cost resulting from the contractor's negligent or reckless acts or omissions or willful misconduct in connection with the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damages for which the County has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless, as set forth herein, shall include the duty to defend, as set forth in Section 2778 of the California Civil Code.

The obligations set forth in this Section shall continue beyond the term of this Agreement as to any act or omission which occurred during or under this Agreement.”

**E.**     Compensation

All insurance required by the paragraphs of this section shall be obtained and maintained by the Contractor at Contractor’s own expense and County shall not compensate Contractor for said insurance expenses other than as they are included in the Contract prices the County pays for the various items of work.

**F.**             Nothing herein contained shall be construed as limiting in anyway the extent to which the Contractor may be held responsible for payments of damages resulting from his operation.

## EXHIBIT D

### Entrance and Parking Fee System

#### Vehicle Entrance Fee Procedures

*Updated from March 1, 2016, for June 2020*

Type of Visitor	Policy	s fee	Courtesy Pass
General visitor, non-member visitors	All must pay the entrance fee. <i>Exception may be buses dropping off and picking up groups.</i>	Yes	
Field trip visitors			
School Program attendee			
(ex: Weekend Workshops)	All must pay the entrance fee unless they are a current member or have been issued a pass under a special circumstance.	Yes	

#### Courtesy Pass Specifics

Board, committee members, cultivation event attendees	They are issued a dated PDF pass to be placed on the front dashboard of their vehicle. Board and some committee members are issued a numbered windshield sticker.		Yes
Members	They are issued a card (with expiration date) to place on the front dashboard of their vehicle. They are required to show the parking pass and membership card at the gatehouse prior to entering the park. There are now three additional parking areas beyond the lot closest to CuriOdyssey where members can park without paying for parking - Captain's House, Eucalyptus Grove, and Marina. The purpose is to limit CuriOdyssey members parking for free at the Magic Mountain playground and beach parking.		Yes
Staff/Volunteers	They are issued a numbered windshield sticker.		Yes
Free School Groups	Free school groups will be listed on the gate list in <b>bold font</b> if they received free parking. A printed parking pass is required for each vehicle to avoid ticking. Organizers are responsible for distribution to chaperones and guests; otherwise, they can request a pass from the front desk.		Yes
Vendors and other staff guests	A PDF pass will be emailed to vendors with <b>date and time of expiration</b> . They can also request a pass from the front desk, if it is lost or forgotten. If a vehicle is branded with a logo and company name, no pass is required.		Yes
Birthday party & wedding attendees, event vendors, etc.	PDF passes will be emailed to party organizers with date and time of expiration. Party organizers are responsible for distribution to guests, otherwise, guests can request a pass from front desk.		Yes
Facility Rentals - special case	If an event is renting space within the park in addition to having their event at CuriOdyssey, they are required to pay the associated park fees & parking.	Yes	

## Exhibit E



Ann M. Stillman  
Interim Director

County Government Center  
555 County Center, 5th Floor  
Redwood City, CA 94063  
650-363-4100 T  
650-361-8220 F  
[www.smcgov.org](http://www.smcgov.org)

---

### Initial Scope of Work

### Job Order Contract

Date Issued: March 08, 2022

To: Manuel Avila  
San Francisco Roofing Services Inc  
2115 Jennings Street  
San Francisco, CA 94124  
650-679-2816

From: Vernon Jones  
County of San Mateo

Job Order #: J134-01-P6059-0

Job Order Title: Coyote Point Curiodyssey TPO/Siding Repair

---

All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

Provide materials, labor and equipment to remove and replace existing damaged siding and waterproofing system at exterior west wall from grade to approx 4' above. Remove and replace siding and waterproofing system at the two wing walls on the north middle level roof. Remove and replace all siding and waterproofing system from the north elevation wall between the east parapet and west corner of building. Caulk and reseal all flashing at north lower roof wall. Replace deteriorated walk pads, reseal all penetrations, inspect and repair all t-joints and provide overall maintenance of all roof elevations.