



BOARD MEETING AGENDA SUBMITTAL

TO: GCSB Board of Directors

FROM: Pete Kampa, General Manager

DATE: November 14, 2023

SUBJECT: Agenda Item 6B: Adoption of a Resolution Approving an Extension of the License and Cost Reimbursement Agreement Between the District and Tuolumne County for Funding an Additional Fire Apparatus and Associated Staffing Co-Located with the Groveland Community Services District Fire Department for One (1) Year

RECOMMENDED ACTION:

Staff recommends the following action:

I move to adopt Resolution 36-2023 approving an extension of the License and Cost Reimbursement Agreement between the District and Tuolumne County for funding an additional fire apparatus and associated staffing co-located with the Groveland Community Services District Fire Department for one (1) year.

BACKGROUND:

On August 1, 2022, the District entered into a License and Cost Reimbursement Agreement with the county for the funding of an additional fire apparatus and associated staffing co-located at the District's fire department. The agreement was for a term of one year and expired on August 1, 2023.

County Counsel's review of the agreement this year took a considerable amount of time, as did our review of their comments. County Counsel proposed a number of changes to the agreement, which was originally developed by our legal counsel last year. A Resolution extending the agreement was on the August 8, 2023 regular meeting agenda, but was tabled for consideration at a future meeting as the agreement was still under review by County Counsel and GCSB legal counsel.

A final draft agreement has been prepared and is presented herein. This continues to be a very beneficial relationship with the County and allows GCSB to provide a solid level of fire and emergency response services.

ATTACHMENTS:

1. Resolution 36-2023
2. License and Cost Reimbursement Agreement

RESOLUTION 36-2023

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT APPROVING A REVISED LICENSE AND COST REIMBURSEMENT AGREEMENT BETWEEN THE DISTRICT AND TUOLUMNE COUNTY FOR FUNDING AN ADDITIONAL FIRE APPARATUS AND ASSOCIATED STAFFING CO-LOCATED WITH THE GROVELAND COMMUNITY SERVICES DISTRICT FIRE DEPARTMENT FOR ONE (1) YEAR

WHEREAS, the Groveland Community Services District (herein referred to as District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, the License and Cost Reimbursement Agreement for Funding an Additional Fire Apparatus and Associated Staffing between the County and Groveland Community Services District was approved on August 1, 2022 for a (1) one year period; and

WHEREAS, the License and Cost Reimbursement Agreement Between the District and Tuolumne County for Funding an Additional Fire Apparatus and Associated Staffing expired on August 1, 2023; and

WHEREAS, Groveland Community Services District and Tuolumne County want to extend the Agreement for another (1) one year term and to make other modifications as suggested by our respective legal counsel.

NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT DOES HEREBY adopt Resolution 36-2023 approving a revised License and Cost Reimbursement Agreement between the District and Tuolumne County for funding an additional fire apparatus and associated staffing co-located with the Groveland Community Services District Fire Department for one (1) year.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Groveland Community Services District on November 14, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT

APPROVE:

Nancy Mora, Board President

ATTEST:

Rachel Pearlman, Board Secretary

CERTIFICATE OF SECRETARY

I, Rachel Pearlman, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District, duly called and held on November 14, 2023.

DATED: _____

LICENSE AND COST REIMBURSEMENT AGREEMENT

THIS LICENSE AND COST REIMBURSEMENT AGREEMENT ("*Agreement*") is made as of August 1, 2023 ("*Effective Date*") by and between GROVELAND COMMUNITY SERVICES DISTRICT ("*Licensor*") and the COUNTY OF TUOLUMNE, a political subdivision of the State of California, ("*Licensee*").

RECITALS

A. Licensor is the owner and operator of that certain real property commonly known as 18930 Main Street, Groveland, California 95321 and otherwise described as "GCSD Station No. 78", improved with a building and other structures and fixtures at which Licensor provides fire protection and emergency response services ("*Services*") to areas within its jurisdictional boundaries (collectively, the "*Station*").

B. Licensee owns and will fund: (i) a fire engine owned by the County of Tuolumne ("*Engine*"), (ii) by separate Cooperative Fire Protection Agreement, a fire crew consisting of approximately six (6) firefighters employed by the State of California ("*Crew*"), and (iii) related fire-suppression and emergency response equipment and gear owned by the County of Tuolumne ("*Equipment*"). Licensee desires to use portions of the Station to locate and operate the Engine, the Crew, and the Equipment, subject to the provisions of this Agreement ("*Licensed Area*").

C. Licensee and Licensor agree this Agreement and more specifically the Permitted Use (defined below) are needed in light of increased fire protection and emergency response service requests owing to new development within the boundaries and response areas of Licensee.

D. Licensor and Licensee now desire to enter into this Agreement to provide Licensee a license to use the Licensed Area subject to and in accordance with the terms and conditions contained herein, with the express understanding and agreement that this Agreement is not intended to be, nor is it, a license coupled with an interest, nor is it intended to, nor does it, confer upon Licensee any exclusive rights of exclusive possession or occupancy whatsoever in connection with the Station.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. License.

1.1. Use of License Area. Subject to all the terms and conditions of this Agreement, Licensee shall have from Licensor a license ("*License*") to use the Licensed Area only for the Permitted Use as defined in Section 3.1. The Licensed Area will include one (1) bay within the Station building for parking the Engine, reasonable storage area(s)

for the Equipment, use of sleeping and living quarters within the Station for the Crew, and other portions of the Station to facilitate the Permitted Use as determined by Licensor in its reasonable discretion. Notwithstanding anything in this Agreement to the contrary, the Licensed Area may not include any portion of the Station which would likely denigrate the Services as determined by Licensor in its reasonable discretion.

1.2. Initial Use Date. The term of this License shall be one (1) year. The License term shall commence on the Effective Date and end on August 1, 2024. Either Licensor or Licensee may terminate the agreement at any time by providing the other with 30 days' advance written notice. This Agreement shall automatically renew each year, unless terminated by Licensee or Licensor.

2. License Consideration. Licensor and Licensee agree the Permitted Use (defined below) and its ancillary benefits to Licensor are valuable and adequate consideration sufficient for the License and no further monetary or other consideration is necessary for the License; provided, however, Licensee will reimburse Licensor as provided in this Agreement.

3. Permitted Use of Licensed Area: Applicable Requirements.

3.1. Permitted Use. Licensee shall use the Licensed Area for the placement of the Engine and Crew dedicated to the south county area to provide increased fire protection and emergency response services for areas located within the Groveland CSD boundaries and participate in mutual aid response areas as well as automatic aid response areas for Tuolumne County (the "*Permitted Use*"). The Permitted Use includes fueling, storing, and maintaining the Engine and the Equipment, and housing the Crew. Subject to the reimbursement and other provisions of the Agreement, Licensee may: (i) fuel the Engine with fuel purchased by Licensor and stored on or about the Station, and (ii) maintain at the Station the Engine and the Equipment using tools and supplies of Licensor.

3.2. Applicable Requirements. Licensee shall comply at its sole cost and expense with all Applicable Requirements. For purposes of this Agreement, "*Applicable Requirements*" shall mean and include:

(a) Laws and Regulations. All laws, statutes, codes, ordinances, decrees, judgments, rules, regulations and other legal requirements, as amended, supplemented or replaced from time to time, which are applicable to the maintenance, repair, alteration, use, safety, or operation of the Licensed Area; the condition of the Licensed Area; Licensee's operations on or about the Licensed Area, as presently conducted or as may be conducted in the future, irrespective of whether such are foreseen or unforeseen, ordinary or extraordinary, minor or substantial;

(b) Third Party Requirements. All reasonable requirements of Licensor's insurance underwriters, now or hereafter in effect, pertaining to Licensee's use or operation of the Licensed Area;

(c) Government Permits. All permits, approvals and licenses (including, without limitation, all terms and conditions thereof) from any governmental or

quasi- governmental agency, authority or entity, pertaining to Licensee's use or operation of the Licensed Area; and

(d) Rules. Licensor's reasonable rules and regulations governing the occupancy and use of the Licensed Area, which may be amended from time to time by Licensor in its discretion.

3.3. Prohibited Activities. Notwithstanding anything to the contrary in this Agreement, and without limiting the generality of any other provision in this Agreement, Licensee shall not: (i) disturb or interfere with Licensor or Licensor's activities at or on the Station; (ii) negatively impact the quality or scope of the Services, in Licensor's reasonable determination; (iii) cause, maintain, or suffer any waste or nuisance in, on or about the Licensed Area, including, without limitation, storage or maintenance of any substance or material that presents an unreasonable risk of fire, explosion, or other hazard; (iv) use the Licensed Area so as to cause either a cancellation of Licensor's insurance policies now or hereafter in effect or any increase in the premiums in connection therewith; (v) place any signs or other markings in or upon any externally visible portions of the Licensed Area or the Station without Licensor's prior written consent (which consent may be withheld or conditioned in Licensor's sole discretion); or (vi) any combination of items (i) through and including (v) listed in this Section 3.3.

3.4. Licensor's Access. Licensor and its authorized representatives shall have the right, but not the duty, at any time to enter upon the Licensed Area in order to monitor or inspect Licensee's activities, assess whether Licensee is in compliance with the provisions of this Agreement, or for any other purpose, including without limitation installing, maintaining, repairing or replacing utilities or other infrastructure, or conducting invasive tests; provided, however, that Licensor shall use reasonable efforts to minimize the impact of such activities on the Permitted Use within the Licensed Area.

3.5. Reservation of Rights. Licensor further reserves and retains all rights of possession and ownership in connection with the Licensed Area, including without limitation the right to grant or enter into, from time to time, such easements, encumbrances, leases, rights of way, and dedications in connection with or including the Licensed Area, as Licensor deems necessary or advisable, in its sole and absolute discretion; provided, that Licensor will not grant to third parties a right to occupy, on a temporary or permanent basis, the Licensed Area. Neither this Agreement, the License nor any use by Licensee or any of its employees, officers, agents, contractors, guests, invitees, partners, joint venturers, affiliates, successors and assigns (collectively, the "***Licensee Parties***") shall confer or be construed to confer upon Licensee or any Licensee Parties any rights of ownership whatsoever in or in connection with the Licensed Area, and License shall not claim or assert anything to the contrary.

3.6. Safety. Without limiting the generality of any other provision in this Agreement, Licensee shall take all steps necessary or advisable to ensure safety at or about the Licensed Area, whether or not such steps are required by any Applicable Requirements.

Licensor, at Licensee's cost and expense, shall have the right, but not the obligation, to immediately commence and prosecute to completion any cure of any failure by or on behalf of Licensee to comply with any provisions of this Section 3.6 caused by Licensee. In the event Licensor determines, in its reasonable discretion, that any condition or situation exists at the Licensed Area that poses or may reasonably pose any imminent threat to the safety of any persons at or adjacent to the Licensed Area or to public health and welfare which was caused by Licensee, Licensor shall have the right, but not the obligation, to immediately: (i) perform at Licensee's cost and expense any work to remedy any such imminent threat; or (ii) take any actions to remedy any such imminent threat, including, without limitation, requiring Licensee to cease operations and suspending or revoking the License.

4. **Termination.**

4.1. Termination by Licensee. Licensee may terminate the License upon 30 days written notice from Licensee to Licensor for any reason or no reason.

4.2. Termination by Licensor. Licensor may terminate the License upon the occurrence of any of the following: (i) upon 30 days written notice from Licensor to Licensee for any reason or no reason; (ii) any material failure by Licensee to comply with any term or condition of this Agreement. Without limiting the generality of Section 11 below, immediately upon any such termination, Licensor shall have the right to remove Licensee and any and all of Licensee's property from the Licensed Area at Licensee's sole cost and expense.

5. **Maintenance and Repair.** Licensee shall, at its sole cost and expense, promptly repair any damage to the Licensed Area caused by Licensee and remove any trash generated by Licensee. In the event that any repairs or maintenance to or for the Licensed Area or any portion thereof are required due to damage caused by Licensee, Licensee shall promptly arrange for the same through Licensee's contractors, provided Licensor shall have the right to approve, in its reasonable discretion, such contractors in writing. All such repairs and maintenance shall be performed in a first class, workmanlike manner and such repairs and maintenance shall be of a quality and class equal to or better than the original work or item. If Licensee fails to perform any of its obligations under this Section 5, Licensor shall have the right, but not the obligation, to perform such obligations at Licensee's expense upon ten (10) days' notice to Licensee.

6. **Alterations.**

6.1. Licensee shall not make any alterations, improvements, additions, replacements, changes, or installations (collectively "**Alterations**") in, on or about the Licensed Area without Licensor's prior written consent (which consent may be granted, conditioned, or withheld in Licensor's sole and absolute discretion). In connection with any such proposed Alterations, Licensor shall have the right to: (i) approve, in its reasonable discretion, Licensee's contractors; (ii) require Licensee to provide Licensor, at Licensee's sole cost and expense, a completion bond in an amount equal to one and one-half times the estimated cost of such Alterations, to guarantee completion of the work; and (iii) require removal of the Alterations upon termination of this Agreement. Should Licensee make any Alterations without the prior approval of Licensor, Licensor shall have the right to require that Licensee immediately remove any or all of such Alterations.

6.2. Any proposed Alterations in or about the Licensed Area shall be presented to Licensor in written form, with proposed detailed plans. If Licensor shall give its consent, the consent shall be deemed conditioned upon Licensee acquiring all necessary permits and governmental approvals, the furnishing of a copy thereof to Licensor prior to the commencement of the work, and the compliance by Licensee with all Applicable Requirements and all conditions of said permits and approvals in a prompt and expeditious manner.

6.3. Licensee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Licensee in connection with the Licensed Area. In the event of any dispute between Licensee and its contractors regarding payment for work requested by Licensee, Licensee shall provide Licensor written notice of the dispute and indemnify, defend and hold Licensor harmless from and against any claims or liabilities resulting from such disputes.

6.4. Licensee shall give Licensor not less than 15 days' notice prior to the commencement of any work at the Licensed Area.

7. Costs; Utilities; Billing. Licensee agrees to reimburse Licensor for costs related to the use of the Station by Licensee.

7.1. Fuel; Maintenance; other Costs. Licensee shall pay all costs and perform all maintenance on county-owned equipment under this License. Licensee shall reimburse Licensor for all: (i) fuel of Licensor used by Licensee, (ii) food, supplies, fixtures, and furniture of Licensor consumed or used or damaged by Licensee or the Crew (or both); (iii) wear and tear, damage, or replacement of tools and equipment of Licensor used by Licensee, its employees, contractors, agents, and other representatives; and (iv) all other costs incurred by Licensor relative to the License.


7.2. Utilities, Security. After review and approval as provided in Section 7.3, Licensee shall be responsible for and pay when due all sums in connection with any and all water, gas, heat, power, telephone, cable, communication and other utilities and services supplied to or used by Licensee, its employees, contractors, agents, and other representatives, together with any taxes thereon. The parties agree that Licensee shall be responsible for fifty percent (50%) of all costs described in this Section 7.2.

7.3. Billing. Each quarter during which reimbursable costs occur, Licensor shall provide, for review and approval by Licensee, a summary of all costs and expenses incurred by Licensor relative to the License ("**Billing**").

7.4. Licensee will complete its initial review within 15 days after receiving the Billing. Licensor will provide any backup documentation reasonably requested by Licensee during the initial review of the Billing, within 5 working days from Licensee's request.

7.5. Licensee will pay all uncontested portions of the Billing, sent at the address for notices to Licensor specified in this Agreement, by no later than 30 days after Licensee's receipt of the Billing.

8. Condition Of Licensed Area: Release Condition; As-Is. THE LICENSED AREA IS BEING LICENSED BY LICENSOR, AND HEREBY IS ACCEPTED BY LICENSEE, IN ITS EXISTING STATE AND CONDITION AS OF THE EFFECTIVE DATE, SUBJECT TO ALL COVENANTS AND RESTRICTIONS OF RECORD, "AS IS, WITH ALL FAULTS." LICENSOR NOR ANY OTHER PARTY HAS MADE, AND THERE IS HEREBY DISCLAIMED, ANY AND ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE LICENSED AREA, INCLUDING WITHOUT LIMITATION THE CONDITION OF THE LICENSED AREA, THE SUITABILITY OR FITNESS OF THE LICENSED AREA OR ANY APPURTENANCES THERETO FOR LICENSEE'S INTENDED USE, THE COMPLIANCE OF THE LICENSED AREA WITH ANY LAWS, ANY MATTER AFFECTING THE USE OR ENJOYMENT OF THE LICENSED AREA OR WITH RESPECT TO ANY OTHER MATTER PERTAINING TO THE LICENSED AREA, OR ANY APPURTENANCES TO THE LICENSED AREA.

8.1. Release. Licensee agrees to release Licensor, its governing board, officials, employees, agents or volunteers from financial responsibility or liability for any death, injury, or damage suffered or incurred by Licensee while using the Permitted Area. 

8.2. Waiver. Licensee acknowledges that it may hereafter discover facts in addition to or different from those which it now knows or believes to be true with respect the subject matter of this Agreement and/or the License, but that it is Licensee's intention to hereby fully, finally and forever waive, assume the risk of, release and discharge each and all of the Claims released under Section 8.2. In furtherance of this intention, the releases set forth in Section 8.2 shall be and remain in effect as full and complete general releases notwithstanding the discovery or existence of any such additional or different claim or fact. Licensee hereby waives application of California Civil Code Section 1542, which provides as follows:

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

9. Insurance and Indemnity.

9.1. Insurance. Licensee, at Licensee's sole cost and expense, shall obtain and maintain:

(a) Commercial General Liability insurance that contains broad form contractual liability with a combined single limit of a minimum of at least five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) umbrella for a total of ten million dollars (\$10,000,000) each occurrence and an aggregate limit of at least fifteen million dollars (\$15,000,000) Coverage must be provided on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, contractual liability coverage, environmental (sudden, seepage and pollution) liability, bodily injury and property damage, products and completed operations. The County will provide a Memorandum of Coverage, given the County participates in a Joint Powers Authority risk pool and this shall be considered the equivalent as set forth above.

(b) Environmental Legal Liability Insurance covering bodily injury, property damage (including loss of use, sudden, seepage and pollution), and cleanup and defense costs with a limit of not less than five million dollars (\$5,000,000) per occurrence and an aggregate limit not less than ten million dollars (\$10,000,000).

(c) Workers Compensation and Employers Liability insurance including coverage for all its employees, but not limited to: Industry's statutory liability under the worker's compensation laws of the state in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.

(d) Employers' Liability (Part B) with limits of at least one million dollars (\$1,000,000) and two million dollars (\$2,000,000) from umbrella for a total of three million dollars (\$3,000,000) aggregate each accident, one million dollars (\$1,000,000) and two million dollars (\$2,000,000) from umbrella for total of three million dollars (\$3,000,000) aggregate by disease policy limit, and one million dollars (\$1,000,000) and two million dollars (\$2,000,000) from umbrella for total of three million dollars (\$3,000,000) aggregate by disease each employee.

(e) Automobile Liability covering bodily injury/property damage of not less than one million dollars (\$1,000,000) and two million dollars (\$2,000,000) from umbrella for a total of three million dollars (\$3,000,000) per accident and an aggregate limit of at least one million dollars (\$1,000,000) and two million dollars (\$2,000,000) from umbrella for a total aggregate limit of three million dollars (\$3,000,000). Coverage is to apply to all owned, non- owned, hired and leased vehicles (including trailers).

(f) The above listed required insurance coverages and threshold amounts shall be subject to reasonable annual review and revision by Licensor.

9.2. Insurance Certificates. Licensee shall provide Licensor with certificates evidencing the insurance required prior to the Effective Date, which shall state that such insurance may not lapse, be changed, amended, canceled or otherwise terminated without at least today's prior written notice to Licensor. Licensee shall provide renewal certificates to Licensor not more than 15 days after the expiration of such policies. Should Licensee fail to provide any such renewal certificate within such 15-day period, or to pay the premium for any insurance policy required of Licensee hereunder, then Licensor shall have the right, but not the obligation, to obtain, renew or replace any such policy at Licensee's cost and expense.

9.3. Payment of Premium Increase. Licensee shall pay to Licensor the amount of any increase in premiums for any insurance carried by Licensor if such premium increase is specified by Licensor's insurance carrier as being caused by the nature of Licensee's use of the Licensed Area, or any portion thereof, or any act or omission of Licensee. Licensee shall pay any such premium increases to Licensor within 30 days after receipt by Licensee of a copy of the premium statement or other evidence of such premium increase.

9.4. Insurance Policies. Insurance required of Licensee hereunder shall be issued by insurance companies holding a "General Policyholders Rating" of at least A-, unless
{CW133502.2}

otherwise acceptable to the Licensor given the County is part of a risk pool which is not rated, or such other rating as may be required by a lender having a lien on the Licensed Area, as set forth in the most current issue of "Best's Insurance Guide," or in case of discontinuance of such publication, a comparable guide. Licensee shall not do or permit to be done anything which shall invalidate the insurance policies referred to in this Section 9. All insurance required to be maintained by Licensee under this Section 9 shall be in a form and carry deductibles reasonably satisfactory to Licensor from time to time.

9.5. Waiver of Subrogation. Licensee and Licensor shall cause the insurance company issuing their respective property insurance to waive any subrogation rights that those companies may have against Licensee or Licensor, respectively, as long as the insurance is not invalidated by the waiver. Provided the waivers of subrogation are contained in their respective insurance policies, Licensor and Licensee waive any right that either may have against the other on account of any loss or damage that is insured under their respective property insurance policies or would have been insured against had the party carried the insurance as required by this License.

9.6. Licensee's Assumption of Risk and Waiver; Exculpation.

(a) Except to the extent such matter is not covered by the insurance required to be maintained by Licensee under this License and such matter is attributable to the gross negligence or willful misconduct of Licensor or any third parties authorized by Licensor to use or access the Licensed Area, Licensor shall not be liable to Licensee or any Licensee Parties for: (i) any damage to property of Licensee, or of any Licensee Parties or others, located in, on or about the Station or the Licensed Area; (ii) the loss of or damage to any property of Licensee or any Licensee Parties or others by theft or otherwise; (iii) any injury or damage to persons or property resulting from fire, explosion, steam, gas, electricity, water, rain or leaks from any part of the Station or the Licensed Area; or (iv) any damage covered by operation and construction of any public or quasi-public work.

(b) Licensor shall in no event be liable for any punitive or consequential damages, or loss of business or profits, and Licensee hereby waives any and all claims for any such damages.

9.7. Indemnity. Licensee shall fully indemnify, defend, protect and hold Licensor, its trustees, board members, officers, employees, agents, assigns, contractors, and insurers of any of the foregoing (collectively, "*Licensor Indemnitees*"), harmless from and against any claim (including, without limitation, any claim existing or arising prior to or after the Effective Date), which may arise from or result from: (i) Licensee's failure to comply with the terms and conditions of this Agreement; (ii) any acts or omissions of Licensee or the Licensee Parties; (iii) the conduct of Licensee's business or operations by Licensee or any of the Licensee Parties; (iv) any Removed Property and any Remaining Property (each as defined below); (v) damage to the Station caused by Licensee or the Licensee Parties. Licensee expressly acknowledges and agrees that it has an immediate and independent obligation to defend Licensor and/or the Licensor Indemnitees from any claim which actually or potentially falls within this Section 9.7, regardless of whether any such claim is, or may be, groundless, fraudulent or false, and that Licensee shall defend Licensor

and/or the Licensor Indemnitees with counsel approved in writing by Licensor, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, nothing in this Agreement shall require Licensee to release or indemnify or defend Licensor in connection with any claims to the extent resulting from: (a) Licensor's breach of any representations, warranty or covenant set forth in this Agreement, or any gross negligence or willful misconduct of Licensor. Licensee's obligations under this Section 9.7 shall arise at the time any such Claim is tendered to the Licensee by Licensor and shall continue until discharged through performance or judicial determination. Licensee shall not settle any claim without the consent of Licensor and any Licensor Indemnitees that may incur liability in connection with such claim under or following such settlement, which consent shall not be unreasonably withheld unless settlement includes a complete release of Licensor.

10. Damage and Destruction. Under no circumstances shall Licensor have any obligation to repair, restore or replace all or any portion of the Station or the Licensed Area following any damage or destruction to or affecting the Station or the Licensed Area (as the case may be), and Licensee shall be solely responsible for all costs and other obligations incurred in connection with any repairs, restoration or replacements in connection with any such damage or destruction caused by or for Licensee, its employees, contractors, agents, or other representatives.

11. Surrender. Restoration.

11.1. Surrender. No later than the termination of the License, Licensee shall (i) remove all Alterations and any and equipment installed or located at the Licensed Area by Licensee and all of Licensee's personal property as of the date of any termination of the License and shall be responsible to repair any damage resulting from any such removal, and (ii) shall restore and surrender the Licensed Area in a clean, sanitary and debris-free condition and in at least as good order and condition as existed immediately prior to the Effective Date, except for reasonable wear and tear from any cause and damage caused by third parties. The foregoing notwithstanding, if Licensor so elects by written notice given at least 15 days before the date of any such termination, Licensee shall leave in place and not remove any Alterations so designated by Licensor (other than Licensee's trade fixtures and equipment, which in any event may be removed by Licensee), and on the date of any such termination, such items shall be conclusively deemed to have been conveyed by Licensee to Licensor, as if by bill of sale, with compensation paid to Licensee for the value of any such designated Alterations.

11.2. Title to and Removal of Licensee's Equipment. Subject to Licensor's rights under Section 11.1, the Alterations shall be and remain the property of Licensee at all times, and Licensee may, upon the termination of the License, remove the Alterations and all of Licensee's other personal property from the Licensed Area. If Licensee fails to perform any repairs or restoration required under Section 11.1, or fails to remove any Alterations and other personal property and equipment from the Licensed Area as required by this Agreement, including, without limitation, Section 11.1, within 15 days after receipt of Licensor's written notice to do so, Licensor may do so on Licensee's behalf, and Licensee shall pay Licensor the cost of such repair, removal or restoration within 15 days after receipt of Licensor's invoice. All property remaining on the Licensed Area after the date of any termination of the License that is removed from the Licensed Area by Licensor pursuant to any provisions of this Agreement or any Applicable Requirements may be used, handled, disposed of or stored by Licensor at Licensee's sole risk and expense (such property, the "**Removed Property**"). All property not removed from the Licensed Area by Licensee or Licensor, or claimed from storage by Licensee within 30 days after termination of the License (the "**Remaining Property**")

shall, at Licensor's option without notice, conclusively be deemed to have been conveyed by Licensee to Licensor, as if by bill of sale.

12. Assignment and Sublicensing. Licensee shall not voluntarily or by operation of law assign, transfer, mortgage, sublet, or otherwise transfer or encumber all or any part of Licensee's interest in this License or in the Licensed Area, without Licensor's prior written consent. Licensor shall respond to Licensee's request for consent hereunder in a timely manner and any attempted assignment, transfer, mortgage, encumbrance or subletting without such consent shall be void, and shall constitute a breach of this License. Any transfer not in accordance with this Section 12 shall be null and void.

13. Miscellaneous.

13.1. Notices. Any notice pursuant to this Agreement shall be given in writing by (a) personal delivery, (b) reputable overnight delivery service with proof of delivery, (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (d) electronic mail (with a copy promptly sent by one of the other foregoing methods) sent to the intended addressee at the address set forth below, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance herewith. Notice by e-mail shall be deemed to have been given on the date sent if sent before 5:00 p.m. California time on a business day and, if not, then on the next business day. Any other form of notice so given shall be deemed to have been given upon receipt or refusal to accept delivery. Notwithstanding the foregoing, notice sent by facsimile is not a valid means of notice under this Section. Unless changed in accordance with the preceding provisions, the addresses for notices given pursuant to this Agreement shall be as follows:

LICENSOR: Groveland Community Services District
18966 Ferretti Road
Groveland, CA 95321

LICENSEE: County of Tuolumne County Administrator
2 South Green Street
Sonora, CA 95370

13.2. Amendment. This Agreement may be supplemented, amended or otherwise modified only by a written instrument signed by both Licensor and Licensee.

13.3. Waiver. No provision of this Agreement shall be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Agreement shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision, and Licensor's consent or approval respecting any action by Licensee shall not constitute a waiver of the requirement for obtaining Licensor's consent or approval respecting any subsequent action.

13.4. Interpretation. Each party has consulted with counsel, or has had the

opportunity to consult with counsel and determined that such consultation is unnecessary, and each party has determined that this Agreement accurately and completely reflects the agreement of the parties. This Agreement has been reviewed by both Licensor and Licensee, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement. No drafts of this Agreement or any other document shall be used or argued to interpret the meaning of this Agreement or any provision thereof, or the parties' intent.

13.5. Entire Agreement. This Agreement is an integrated document that contains the entire understanding between the parties relating to the subjects it covers, and supersedes all prior drafts, applications, correspondence and agreements, whether oral or written, concerning the subject matter of this Agreement.

13.6. Severability. If any term, covenant or condition of this Agreement is held by a court or regulatory body or agency of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms, covenants and conditions shall continue in full force and effect unless a material failure of consideration would result, in which case the Agreement shall terminate.

13.7. Remedies. Each remedy set forth in this Agreement is cumulative of and in addition to any other remedy in this Agreement or available at law or in equity. The exercise, partial exercise or failure to exercise any remedy by any party shall not be an election of remedies and such party shall not be precluded from exercising any other remedy under this Agreement or other remedy available at law or in equity.

13.8. Time is of the Essence. Time is of the essence in the performance of each party's respective obligations under this Agreement.

13.9. Attorneys' Fees. The Prevailing Party (defined below) in any action or proceeding (including without limitation any arbitration) brought to enforce this Agreement shall be entitled to recover from the other party its reasonable attorneys' fees, costs, and expenses paid or incurred in good faith in connection with such action or proceeding (including, without limitation, expert witness fees and costs of collection, including those fees and costs incurred in enforcing this Section and those fees and costs incurred in connection with any appeal). For purposes of this Agreement, the "**Prevailing Party**" shall be deemed to be that party which obtains substantially the relief sought, whether by dismissal or by award or judgment.

13.10. No Partnership. Nothing contained in this Agreement shall be construed as creating a leasehold interest or making Licensor and Licensee joint venturers or partners.

13.11. Third Party Beneficiaries. There are no third party beneficiaries to this Agreement, except as expressly provided herein.

13.12. Governing Law. This License and this Agreement shall be governed by the internal laws of the State of California.

13.13. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and may be transmitted by facsimile. Counterpart signature pages may be assembled to form a single original document.

13.14. Successors and Assigns. Subject to Section 13, and except as otherwise expressly provided herein, all of the covenants, conditions and provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the Effective Date.

LICENSEE:

COUNTY OF TUOLUMNE

By: _____

Title: _____

Print: _____

Date: _____

LICENSOR:

GROVELAND COMMUNITY SERVICES DISTRICT

By: _____

Title: _____

Print: _____

Date: _____

APPROVED AS TO FORM:

By: _____
County Counsel

Print: _____