

**AGRICULTURAL LEASE AGREEMENT
([PROPERTY] Tract)**

This Agricultural Lease Agreement (this “**Agreement**”) is executed as of [DAY] day of [MONTH] [YEAR], by and between SACRAMENTO AREA FLOOD CONTROL AGENCY, a joint powers authority established pursuant to the laws of the State of California, hereinafter referred to as (“**SAFCA**”), and [NAME] representing [COMPANY], hereinafter referred to as (“**Tenant**”).

RECITALS

WHEREAS, SAFCA has determined that it is desirable to retain a qualified firm or individual to lease agricultural lands at various locations in the Natomas Basin, in northwestern Sacramento County and southeastern Sutter County; and

WHEREAS, SAFCA issued a Request for Proposals for these services; and

WHEREAS, Tenant by reason of the Tenant's qualifications, experience and facilities for performing the type of services contemplated herein has proposed to provide the desired services; and

WHEREAS, SAFCA Resolution [RESO#], authorizes the Executive Director to enter into an Agreement for said services with Tenant; and

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, SAFCA and Tenant agree as follows:

AGREEMENT

1. Description of Project. The property, including the appurtenances (hereinafter collectively referred to as the “**Project**”), is situated in [COUNTY]County, State of California, and is all that certain real property shown on **Exhibit A** and **Exhibit B**, attached to this Agreement. Exhibits A and B refer to property commonly known as the [PROPERTY] Tract, containing approximately [# OF ACRES] acres. The [PROPERTY] tract is intended to be farmable and represents the acreage covered by this Agreement.

2. Term. The term of this Agreement shall commence on the execution of this Agreement by SAFCA and Tenant, and shall terminate on [DAY] day of [MONTH] [YEAR].

3. Project Fees.

(a) Payments Generally. Tenant shall make an annual payment during the term of this Agreement to SAFCA, due and payable no later than [DATE] (or upon the execution of this Agreement, if later than [DATE]) (the “**Project Fee**”). Such payment shall be in the amount of [LEASE RATE]. All Project Fees shall be paid to SAFCA, without deduction or offset at Sacramento Area Flood Control Agency, 1007th Street, 7th Floor, Sacramento, CA 95814, or such other place as may be designated from time to time by SAFCA. Tenant acknowledges that this Agreement is offered by SAFCA to Tenant with a discounted Project Fee owing to the nature of the Project having been subject to activity associated with SAFCA’s Natomas Levee Improvement Program (“**NLIP**”) borrow site operations. These risks and other uncertainties cannot be fully

quantified, but SAFCA and Tenant agree that the discounted Project Fee payments are a consideration for these uncertainties.

(b) Late Fees/Interest. If the payment of any amount due hereunder is not received by SAFCA within 10 days of the due date thereof, said payment shall be in default and a late fee of 5% of the defaulted payment shall also become due and payable as additional Project Fees. Further, after the 10th day, said past due amount (but not late fees) shall bear interest at the maximum rate permitted by law.

4. Use of Project.

(a) Permitted Use. Tenant shall use the Project for the production of grain or cover crops. Under no circumstances whatsoever may Tenant use the Project for the growing of vineyards, corn, cotton, or orchard crops. SAFCA authorizes Tenant to periodically fallow the Project at Tenant's option, provided that Tenant shall advise SAFCA in advance in writing of such decision, with SAFCA's written permission. No Project Fees will be due with the fallowing of the farm. Fallowing of acreage does not relieve Tenant of the other responsibilities included in this Agreement.

5. Management of Project. Tenant shall not use, or permit to be used, any part of the Project for any purpose other than as specified in Section 4, hereof. All operations incident to this use of the Project shall be carried on in accordance with the best course of agricultural practices in the Natomas Basin. In the event Tenant shall fail to use the Project in keeping with the terms of this Agreement, SAFCA reserves the right, after having given 10 days' notice, to take necessary remedial measures at the expense of Tenant, for which Tenant shall reimburse SAFCA on demand. Tenant will make diligent efforts to prevent the spread of all noxious weeds on the Project and will take commercially reasonable measures to protect the Project from infestations of pests. Tenant will make diligent efforts to prevent infestations of organisms that may produce disease in crops grown on the Project during and after the term of this Agreement. IT IS TENANT'S OBLIGATION TO MAINTAIN THE PREMISES, INCLUDING, BUT NOT LIMITED TO, WEED MANAGEMENT. WEED MANAGEMENT WILL APPLY TO THE ENTIRE PREMISES.

6. Consideration of Other Plans and Agreements. SAFCA has purchased the entirety of this tract (as described above) as a contingency against un-met mitigation needs for NLIP Giant garter snake habitat impacts. This Agreement is made in furtherance of the Conservation Values as the term is defined in the Master Agreement described below, Mitigation Monitoring Plans dated April, 2009 and November 5, 2009, Long Term Management Plan dated April 29, 2009, and the Master Agreement dated March 4, 2009 (together referred to as "Existing Agreements"). In addition, SAFCA is preparing a Site Specific Improvement Plan and a Site Specific Management Plan ("SSIP" and "SSMP" as these terms are defined in the Master Agreement). Tenant acknowledges receipt of copies of the Existing Agreements, which agreements are fully incorporated herein and agrees to adhere to all terms and conditions of the SSIP and SSMP once adopted. If any or all of the Existing Agreements are terminated during the term of this Agreement, Tenant agrees (i) to hold SAFCA harmless for any claim arising from this Agreement, and (ii) that SAFCA shall have no further duty or obligation to Tenant under this Agreement.

7. SAFCA's Rights. The Existing Agreements entitle, but do not obligate, SAFCA and its successors and/or assignees to exercise the following rights and privileges:

(a) To grade, level, drain, install irrigation, install drainage or carry out other maintenance activities as set forth in the MMP and the LTMP in order to maintain the Conservation Values.

(b) To enter the Project at reasonable times in order to monitor compliance with and otherwise enforce the terms of the Existing Agreements, the MMP and the LTMP, provided that SAFCA shall not unreasonably interfere with any authorized use of the Project.

(c) To prevent any activity on or use of the Project that is inconsistent with the purposes of this Agreement and to require the restoration of such areas or features of the Project that may be damaged by any act, failure to act, or any use or activity that is inconsistent with the purposes of the Existing Agreements.

(d) To require that all existing mineral, air and water rights as SAFCA deems necessary to preserve and protect the biological resources and Conservation Values shall remain a part of and be put to beneficial use upon the Project, consistent with the purposes of the Project.

(e) To control public access to the Project to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the Conservation Values of the Project or are otherwise inconsistent with this Agreement.

(f) To manage and maintain the Conservation Values on the Project.

8. Prohibited Uses. Any activity on or use of the Project that is inconsistent with the purposes of the Existing Agreements is prohibited. Without limiting the generality of the foregoing, the following uses and activities by Tenant agents, and third parties are expressly prohibited:

(a) Recreational activities, including, but not limited to, horseback riding, biking, hiking, camping, hunting, or fishing.

(b) Non-agricultural commercial, industrial, residential, or institutional uses.

(c) Any legal or de facto division, subdivision or partitioning of the Project. Accordingly, all present and future development rights appurtenant to, allocated, implied, reserved or inherent in the Project have been terminated and extinguished, and may not be used on or transferred to any portion of the Project, nor any other property adjacent or otherwise.

(d) Construction, reconstruction, erecting or placement of any non-agricultural building, billboard or signs (excepting "no trespass" or "sensitive area" signs), or any other non-agricultural structure or improvement of any kind.

(e) Deposit or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials except as provided in the MMP or the LTMP.

(f) Planting, introduction or dispersal of non-native or exotic plant or animal species except for mosquitofish or cultivated crops. The following crops may not be grown on this site:

(i) Orchards;

(ii) Vineyards;

(iii) Cotton; and

(iv) Corn.

(g) Filling, dumping, excavating, draining, dredging, mining, drilling, removing, exploring for or extracting minerals, loam, soil, sand, gravel, rock or other material on or below the surface of the Project, or granting or authorizing surface entry for any of these purposes, except as allowed below, as specifically provided in the MMP or LTMP, or as necessary/appropriate to conduct permitted agricultural operations.

(h) Except for field leveling allowed under Section 11 below, altering the surface or general topography of the Project, including but not limited to, making any alterations to habitat, building roads or trails, paving or otherwise covering the Project with concrete, asphalt or any other impervious material, except as necessary to accomplish the objectives of the MMP or LTMP or to conduct permitted agricultural operations.

(i) Removing, destroying, or cutting of trees, shrubs or other vegetation, except (a) to prevent injury or damage to persons or property, including but not limited to adjacent utilities, (b) to maintain existing or new, legally required fire breaks, (c) to maintain existing foot trails or roads, (d) to prevent or treat plant or animal disease, (e) to conduct permitted agricultural operations, or (f) as necessary to accomplish the objectives of the MMP or LTMP or to conduct permitted agricultural operations.

(j) Altering any natural water course, body of water or water circulation on the Project, and any activities or uses materially detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters, except as necessary to accomplish the objectives of the MMP or LTMP or to conduct permitted agricultural operations.

(k) Without the prior written consent of SAFCA -- which SAFCA may withhold -- transferring, encumbering, selling, leasing, or otherwise separating the existing mineral, air or water rights for the Project; changing the place or purpose of use of the water rights; abandoning or allowing the abandonment of, by action or inaction, any water or water rights, ditch or ditch rights, spring rights, reservoir or storage rights, wells, ground water rights, or other rights in and to the use of water historically used on or otherwise appurtenant to the Project, including but not limited to (a) riparian water rights; (b) appropriative water rights; (c) rights to waters that are secured under contract with any irrigation or water district or company, to the extent such waters are customarily applied to a conservation area; and (d) any water from wells that are in existence or may be constructed in the future on the Project.

(l) Engaging in any use or activity that may violate, or may fail to comply with, relevant federal, state, or local laws, regulations, or policies applicable to Tenant, the Project, or the use or activity in question.

9. Farm Program Participation. SAFCA and Tenant acknowledge that SAFCA is not obligated to obtain participation of the Project in the USDA Farm Services Agency farm program (e.g., subsidy program). SAFCA cannot warrant or ensure participation eligibility efforts will be successful. However, if such subsidies are available, SAFCA will cooperate with Tenant in securing benefits.

10. Use of Fertilizers, Pesticides and Other Substances. Tenant shall store, prepare, use, apply, and dispose of all fertilizers, pesticides and other sprays and chemicals (collectively,

“**Substances**”) necessary for crop production and protection on the Project strictly in compliance with applicable laws, statutes, ordinances and regulations of all federal, state, county and city bodies having jurisdiction in such matters, and the manufacturer’s directions for the safe and effective use of such Substances. If SAFCA becomes aware that any Substance available for use on any crop grown on the Project is harmful to the Giant Garter Snake or the Swainson’s Hawk, then SAFCA shall have the right to prohibit the use of such identified Substance on the Project. Tenant shall have the right to terminate the Agreement if the prohibition by SAFCA of the use of the Substance makes the Agreement unproductive for Tenant. Prior to any termination, Tenant shall notify SAFCA in writing to allow SAFCA an opportunity to suggest an alternative Substance. If SAFCA and Tenant cannot reach agreement within 30 days of Tenant’s initial notice, Tenant may terminate this Agreement. If Tenant terminates this Agreement in accordance with this provision, SAFCA shall reimburse Tenant all Project Fees paid in accordance with Section 3 for the current crop year, without interest, and this will be the sole compensation and remedy to Tenant.

11. Field Leveling.

(a) Tenant may level the Farm Fields for purposes of improving farm efficiency and productivity, but any and all such leveling will be at Tenant’s sole expense unless SAFCA agrees in writing to pay these costs. Tenant will notify SAFCA of intentions to conduct any leveling in order to avoid conflict with SAFCA’s implementation of the Existing Agreements. With SAFCA’s prior written consent, Tenant’s Project Fees as specified in Section 3 above will be waived during the year in which field leveling is completed for those acres that are removed from production for the purpose of field leveling.

(b) SAFCA reserves the right to enter the Project to remove soil from the elevated portion of Field 2. Such removal shall be conducted in a manner that will not unreasonably affect the Tenants use of the Project.

12. Hunting Rights. No hunting is permitted on the Project.

13. Taxes. All real property taxes and the assessments from Reclamation District 1000 shall be paid by SAFCA. However, if supplemental or additional taxes (e.g., possessory interest) are assessed to the Project, Tenant will be responsible for paying those additional property taxes. All personal property taxes shall be paid by Tenant.

14. Expenses. SAFCA is to bear only the following expenses: the real property taxes and assessments as described below. All other expenses, including the cost of the water used by Tenant on the Project, are to be paid by Tenant. Tenant is not responsible for any expenses pertaining to any managed marsh portions of the Project.

(a) Water. The Project is provided water for irrigation purposes by a private third party diesel well. Costs and expenses arising from the operation, maintenance and repairs of necessary diversion structures, farm laterals, drains and other waterworks related to irrigation water systems on the Project, shall be paid by Tenant. SAFCA assumes no responsibility to Tenant for any water shortage from the facilities mentioned above and assumes no responsibility for, and does not represent or warrant, the quality or quantity of the water available to and/or supplied to the Project.

(b) Utilities. Tenant shall pay for any and all gas, heat, light, power, telephone service, sewer and for all other services supplied to the Project.

15. Disclaimer of Warranty – Soil Suitability. SAFCA makes no warranty of the soil's suitability for growing the crops Tenant is authorized to grow under this Agreement.

16. Agreement Subject to Existing Rights of Others. This Agreement is subject to: (a) all existing easements, servitudes, licenses and rights-of-way for canals, ditches, levees, roads, highways and telegraph, telephone and electric power lines, railroads, pipelines and other purposes, whether recorded or not; and (b) the rights of other lessees under any existing or future oil, gas and mineral lease or leases affecting the entire or a portion of the Project, whether recorded or not.

17. Abandonment. Tenant shall not vacate or abandon the Project at any time during the term; if Tenant does abandon, vacate or surrender the Project, or if Tenant is dispossessed by process of law or otherwise, personal property belonging to Tenant and left on the Project shall be kept for a reasonable time by SAFCA, but in no event longer than 15 days after SAFCA gives Tenant notice to remove that property from the Project, after which time, if it has not been reclaimed by Tenant, it may be treated by SAFCA as abandoned.

18. Holding Over. Any holding over after expiration of the term of this Agreement, with the consent of SAFCA, shall be treated as a service contract from month to month, for \$250.00 a month in Project Fees, and shall otherwise be on the terms and conditions specified in this Agreement, as far as applicable.

19. Entry by SAFCA. Tenant shall permit SAFCA, and SAFCA's agents and assigns, at all reasonable times, to enter the Project, and to use the roads established on the Project now or in the future, for the purposes of inspection, compliance with the terms of this Agreement, exercise of all rights under this Agreement, posting notices and all other lawful purposes, including access through the Project to other lands of SAFCA. Tenant shall supply SAFCA, and SAFCA's agents and assigns, with keys and other instruments necessary to effect entry on the Project. Tenant shall make and keep pertinent records of all operations and conduct under this Agreement and shall make them available to SAFCA, and SAFCA's agents and assigns, at all reasonable times for inspection.

20. Condition of Project. By entry under this Agreement, Tenant accepts the Project in its present condition; and Tenant agrees, on the last day of the term or on sooner termination of this Agreement, to surrender the Project and the appurtenances to SAFCA in the same condition as when received, reasonable use, wear and damage by fire, act of God or the elements excepted, and to remove all of Tenant's property from the Project.

21. Waste. Tenant shall not commit, or permit others to commit, on the Project, waste, or a nuisance, or any other act that could disturb the quiet enjoyment of SAFCA or any SAFCA tenants on adjacent property. Tenant will pick up and dispose of minor litter and debris found on the Project on a periodic basis. If Tenant finds larger debris, deposits or hazardous debris on the Project, Tenant should contact SAFCA to arrange for removal and clearance of such debris.

22. Oil, Gas and Mineral Rights. All rights in all minerals, oil, gas and other hydrocarbons located on or under the Project are reserved to SAFCA and are excepted from the property or any rights conveyed by the terms of this Agreement. Tenant expressly grants to SAFCA, and to any and all lessees of these oil, gas and mineral rights, and to SAFCA's agents and licensees, a right of entry and a right-of-way for ingress and egress in and to, over and on the Project during the term of this Agreement for the exploration, drilling and mining of minerals, oil, gas and other hydrocarbons on the Project; provided that SAFCA shall reimburse Tenant for

any damages that Tenant sustains as a result of any interference with the agricultural operations conducted on the Project under the terms of this Agreement arising from exploration, drilling or mining operations.

23. Maintenance. Tenant shall care for both the Project and the approaches to the Project, including, but not limited to, all fences, canals, wells, ditches and roadways, and maintain them in the same order and condition in which received, ordinary wear and tear excepted.

24. Alterations. Tenant shall not make, or permit to be made, alterations to the Project, without first obtaining SAFCA's written consent. Additions to, or alterations of, the Project, except for Tenant's trade fixtures, shall become a part of the Project, at the time of attachment and belong to SAFCA. Tenant shall keep the Project free from any liens arising out of any work performed, material furnished or obligations incurred by Tenant.

25. Compliance with Law. Tenant shall comply with all requirements of all governmental authorities, in force either now or in the future, affecting the Project, and shall faithfully observe in Tenant's use of the Project all laws, rules and regulations of these authorities, in force either now or in the future. The judgment of a court of competent jurisdiction, or Tenant's admission in an action or a proceeding, whether SAFCA be a party to it or not, that Tenant has violated any law, rule or regulation in Tenant's use of the Project shall be considered conclusive evidence of that fact as between SAFCA and Tenant. If Tenant fails to comply with any such law, regulation or rule, SAFCA reserves the right to take necessary remedial measures at Tenant's expense, for which Tenant agrees to reimburse SAFCA on demand.

26. Condemnation. If the Project shall be taken or condemned in whole or in substantial part for public purposes, this Agreement shall, at the option of either party, forthwith cease and terminate and Tenant shall have no claim against SAFCA for the value of any unexpired term of this Agreement or otherwise, except for moving expenses, if any, designated for Tenant. Tenant shall have the right to pursue a separate claim against the condemning authority for Tenant's personal property and fixtures, unexpired or market value of the Agreement, moving expense, and loss of business.

27. Nonliability SAFCA for Damages. Tenant agrees to indemnify, protect, defend and hold SAFCA harmless from all liability and claims for damages arising directly or indirectly from any injury from any cause to any person, including Tenant or any employees of Tenant, or to property of any kind belonging to anyone, including Tenant or any employees of Tenant, while in, upon or in any way connected with the Project, including the flooding of county roads or neighboring lands because of improper or inadequate drainage or escaping irrigation waters, during the term or any extension of this Agreement, or any use under this Agreement.

28. Insurance. Tenant further agrees to maintain during the term of this Agreement at Tenant's expense a commercial general liability policy of insurance with a company licensed to conduct business in the State of California. The limits of liability under this insurance are to be for amounts not less than \$1 Million single limit, \$2 Million general aggregate. All insurance shall be written on an occurrence basis, and shall name SAFCA as additional insureds. Tenant shall provide evidence of the insurance and additional insured requirements to SAFCA. SAFCA shall receive written notice no less than 30 days prior to any cancellation of the insurance. Tenant agrees that if Tenant does not keep the insurance in force, SAFCA may obtain the necessary insurance at Tenant's expense. The repayment of the premium shall be due and payable by Tenant within 10 days of SAFCA's written demand. Tenant further agrees to maintain during the

term of this Agreement at Tenant's sole expense proper and adequate workers' compensation insurance as required by law.

29. Events of Default. The occurrence of any one or more of the following events shall constitute a default hereunder by Tenant:

- (a) The abandonment of the Project by Tenant.
- (b) The failure by Tenant to make any payment of Project Fees or additional Project Fees or any other payment required to be made by Tenant hereunder, as and when due.
- (c) The failure by Tenant to observe or perform any of the express or implied covenants or provisions of this Agreement to be observed or performed by Tenant.
- (d) (1) The making by Tenant of any general assignment for the benefit of creditors; (2) the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within 30 days); (3) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Project or of Tenant's interest in this Agreement, where possession is not restored to Tenant within 30 days; or (4) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Project or of Tenant's interest in this Agreement where such seizure is not discharged within 30 days.

30. Remedies of SAFCA on Default. If Tenant breaches this Agreement, SAFCA shall have, in addition to other rights or remedies, the right of reentry, after having given five days' notice, and the right to take possession of all crops, harvested or unharvested, and to remove all persons and property from the Project; SAFCA may store the property removed in a public warehouse or elsewhere at Tenant's expense and for Tenant's account. SAFCA, at SAFCA's election, shall become the owner of all crops of which SAFCA has so taken possession, without being obligated to compensate Tenant for them.

If SAFCA elects to reenter, as provided above, or to take possession under legal proceedings or under any notice provided for by law, SAFCA may (i) terminate this Agreement, or (ii) from time to time, without terminating this Agreement, relet the entire or any part of the Project for such terms (which may extend beyond the term of this Agreement) and at such Project Fees and other conditions as SAFCA, in SAFCA's sole discretion, deems advisable. SAFCA also has the right to make alterations and repairs to the Project.

On each reletting either Subsection 30(a) or (b) shall apply:

- (a) Tenant shall be immediately liable for payment to SAFCA of (i) SAFCA's expenses of reletting and making alterations and repairs, (ii) the amount by which the Project Fees specified in this Agreement for the period of the reletting (up to but not beyond the term of this Agreement) exceeds the amount agreed to by the new agricultural services contractor to be paid as Project Fees for the Project, and (iii) all other indebtedness due under the Agreement; or
- (b) At SAFCA's option, Project Fees received by SAFCA from reletting shall be applied: first, to the payment of any indebtedness, except Project Fees, due under this Agreement from Tenant to SAFCA; second, to the payment of expenses of reletting and alterations and repairs; and third, to the payment of Project Fees due under the Agreement and

unpaid, with the residue, if any, being held by SAFCA and applied in payment of future Project Fees as it becomes due and payable under the Agreement.

If Tenant has been credited with Project Fees to be received by reletting under the option in Subsection 30(a), above, and the Project Fees are not promptly paid to SAFCA by the new agricultural services contractor; or if the Project Fees received from reletting under the option in Subsection 30(b), above, during any month are less than that to be paid during that month by Tenant under the Agreement, Tenant shall pay the deficiency to SAFCA. This deficiency shall be calculated and paid monthly.

No reentry or taking possession of the Project by SAFCA shall be construed as an election by SAFCA to terminate this Agreement unless written notice of such an intention is given to Tenant or the Agreement is declared to be terminated by a court of competent jurisdiction. Even though the reletting was without termination by SAFCA, SAFCA may at any future time elect to terminate the Agreement for the previous breach by Tenant. If SAFCA terminates the Agreement for a breach in addition to any other remedy SAFCA may have, SAFCA may recover from Tenant all damages SAFCA incurs by reason of the breach, including both the cost of recovering the Project and the worth, at the time of termination, of the excess of the amount of Project Fees and charges equivalent to Project Fees specified in this Agreement, for the remainder of the stated term, over the then-reasonable Project Fees value of the Project for the remainder of the term. All of these amounts shall be immediately due from Tenant to SAFCA.

All of these rights shall be concurrent and cumulative and are in addition to, and not in derogation of, all other rights and remedies available to SAFCA.

Nothing contained in this Agreement, and no security or guarantee of Tenant that SAFCA holds now or in the future under the Agreement, shall in any way constitute a bar or defense to an action by SAFCA in unlawful detainer or for recovery of the Project.

31. Governing Law. This Agreement shall be governed by and construed pursuant to the laws of the State of California.

32. Attorneys' Fees on Default. In any action or proceeding by either party to enforce this Agreement or any provision thereof, the prevailing party shall be entitled to all costs incurred and to reasonable attorneys' fees. If SAFCA should bring suit for the possession of the Project, for the recovery of any sum due under this Agreement, or because of the breach of any provision of this Agreement, or for any other relief against Tenant hereunder, then all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party therein shall be paid by the other party, which obligation on the part of the other party shall be deemed to have accrued on the date of the commencement of such action and shall be enforceable whether or not the action is prosecuted to judgment.

33. Action of Receiver. If, in an action against Tenant, SAFCA has a receiver appointed to take possession of the Project, or to collect the Project Fees or profits derived from the Project, or both, the receiver has the right, if it is necessary or convenient in order to collect Project Fees or profits, to conduct the business of Tenant then being carried on the Project and to take possession of any personal property belonging to Tenant and used in the conduct of the business, and to use the personal property in conducting the business on the Project. Neither the application for the appointment of the receiver, nor the appointment of the receiver, shall be construed as an election by SAFCA to terminate this Agreement unless a written notice of such intention is given to Tenant.

34. Surrender of Agreement not Merger. The voluntary or other surrender by Tenant, or a mutual cancellation, of this Agreement shall not work a merger, and shall, at SAFCA's option, terminate all existing service agreements, licenses, subleases and subtenancies, or may, at SAFCA's option, operate as an assignment to SAFCA of any or all service agreements, licenses, subleases or subtenancies.

35. Assignment or Subletting. Tenant shall not assign this Agreement, or any rights under it, and shall not sublet the entire or any part of the Project, or any right or privilege appurtenant to the Project, or permit any other person (the agents and servants of Tenant excepted) to occupy or use the entire or any portion of the Project, without first obtaining SAFCA's written consent; provided that SAFCA shall not unreasonably withhold consent to assignment, sublease of use or possession of the Project. A consent to the assignment, subletting, occupation or use by another person is not a consent to a future assignment, subletting, occupation or use by another person. An assignment or a subletting without SAFCA's consent shall be void, and shall, at SAFCA's option, terminate this Agreement. No interest of Tenant in this Agreement shall be assignable by operation of law without SAFCA's written consent. If SAFCA agrees to Tenant's assignment, license or sublet, Project Fees under such assignment, license or sublease shall be divided 50/50 between Tenant and SAFCA.

36. Successors and Assigns. Except as otherwise provided in this Agreement, all of the covenants, conditions and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

37. Crop Mortgages. All crop mortgages, encumbrances or liens given or suffered by Tenant on the crops grown on the Project shall be for terms or periods not extending beyond the term of the Agreement. All liens created by Tenant must be satisfied of record by Tenant before the end of the term. If a mortgage or lien creates a lien on SAFCA's title, Tenant must pay all reasonable costs and expenses, including attorneys' fees, required for the removal of the lien or mortgage, either before or after termination of the Agreement.

38. Waiver. The waiver by SAFCA of a breach of any term, covenant or condition contained in this Agreement shall not be treated as a waiver of such term, covenant or condition, or as a waiver of a future breach of the same or any other term, covenant or condition contained in this Agreement. The acceptance of Project Fees by SAFCA shall not be treated as a waiver of a previous breach by Tenant of any term, covenant or condition of this Agreement, other than the failure of Tenant to pay the particular Project Fees so accepted, regardless of SAFCA's knowledge of a previous breach at the time of acceptance of Project Fees.

39. Representations of Authority. Tenant represents and warrants that it is authorized to do business under the laws of the State of California. Tenant further represents and warrants that it has the right and authority to enter into and perform its obligations under this Agreement and under all collateral agreements to be entered into by it in furtherance of the provisions hereof without the consent or approval of any other entity or person and make these representations knowing that the other party will rely thereon.

40. Anti-Harassment and Anti-Discrimination Policy. SAFCA is committed to establishing and maintaining a workplace that is free from unlawful harassment and discrimination. As required by law, the SAFCA has developed an "Anti-Harassment and Anti-Discrimination Policy" applicable to all independent contractors that is available on request. Tenant shall be responsible for informing all of its employees, representatives, contractors, and/or

agents who will be entering and performing work on the Project about this policy. In the event Tenant acquires information to suggest that this policy is being violated, Tenant shall promptly notify SAFCA. All employees, applicants, and independent contractors (“workers”) of SAFCA are to be treated with respect and dignity. SAFCA is committed to providing a work environment free of unlawful harassment and discrimination. SAFCA policy prohibits all harassment and discrimination because of sex, gender, race, religious creed, color, national origin or ancestry, genetic condition, physical or mental disability, medical condition, including AIDS, marital status, age, sexual orientation or any other basis protected by federal, state or local law or ordinance or regulation. All such harassment or discrimination is unlawful. SAFCA’s Anti-Harassment and Anti-Discrimination policy applies to all persons involved in the operation of SAFCA and prohibits unlawful harassment or discrimination by any worker of SAFCA. Tenant agrees to comply with the SAFCA Anti-Harassment and Anti-Discrimination Policy in Tenant’s operations on the Project and with regard to any of SAFCA’s employees, agents, contractors or subcontractors on or about the Project.

Tenant’s Initials

- 41. Headings. The section headings of this Agreement are not part of this Agreement and shall have no effect upon the construction or interpretation of any part thereof.
- 42. Time. Time is of the essence with respect to the performance of every provision of this Agreement in which time or performance is a factor.
- 43. Prior Agreements; Amendments. This Agreement contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Agreement, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.
- 44. Separability. Any provision of this Agreement which shall prove to be invalid, void or illegal in no way affects, impairs or invalidates any other provision hereof, and such other provisions shall remain in full force and effect.
- 45. Recording. Neither this Agreement nor a memorandum thereof shall be recorded by Tenant without SAFCA’s prior written permission.
- 46. Notices. Any notice to be given to either party by the other shall be in writing and shall be served either personally or by registered or certified mail addressed as follows:

SAFCA:	SACRAMENTO AREA FLOOD CONTROL AGENCY Attn: Executive Director 1007 7 th Street, 7 th Floor Sacramento, CA 95814 Telephone: (916) 874-7606 Facsimile: (916) 874-8289
Tenant:	[NAME] [ADDRESS] [CITY, STATE ZIP] Telephone:

Email:

47. Legal Effect. All covenants of Tenant contained in this Agreement are expressly made conditions. All parties to this Agreement shall be jointly and severally liable under it.

48. Exhibits. All exhibits to which reference is made in this Agreement are incorporated in the Agreement by the respective references to them, whether or not they are actually attached, provided they have been signed or initialed by the parties. Reference to “**this Agreement**” includes matters incorporated by reference.

SIGNATURES FOLLOW ON NEXT PAGE

Tenant:

By: _____
[NAME, TITLE]

Date signed: _____

SAFCA:

SACRAMENTO AREA FLOOD CONTROL AGENCY
a joint powers authority

By: _____
Richard M. Johnson, Executive Director

Date signed: _____

APPROVED AS TO FORM:

By: _____
Jeremy D. Goldberg, Agency Counsel

Date signed: _____

EXHIBIT A

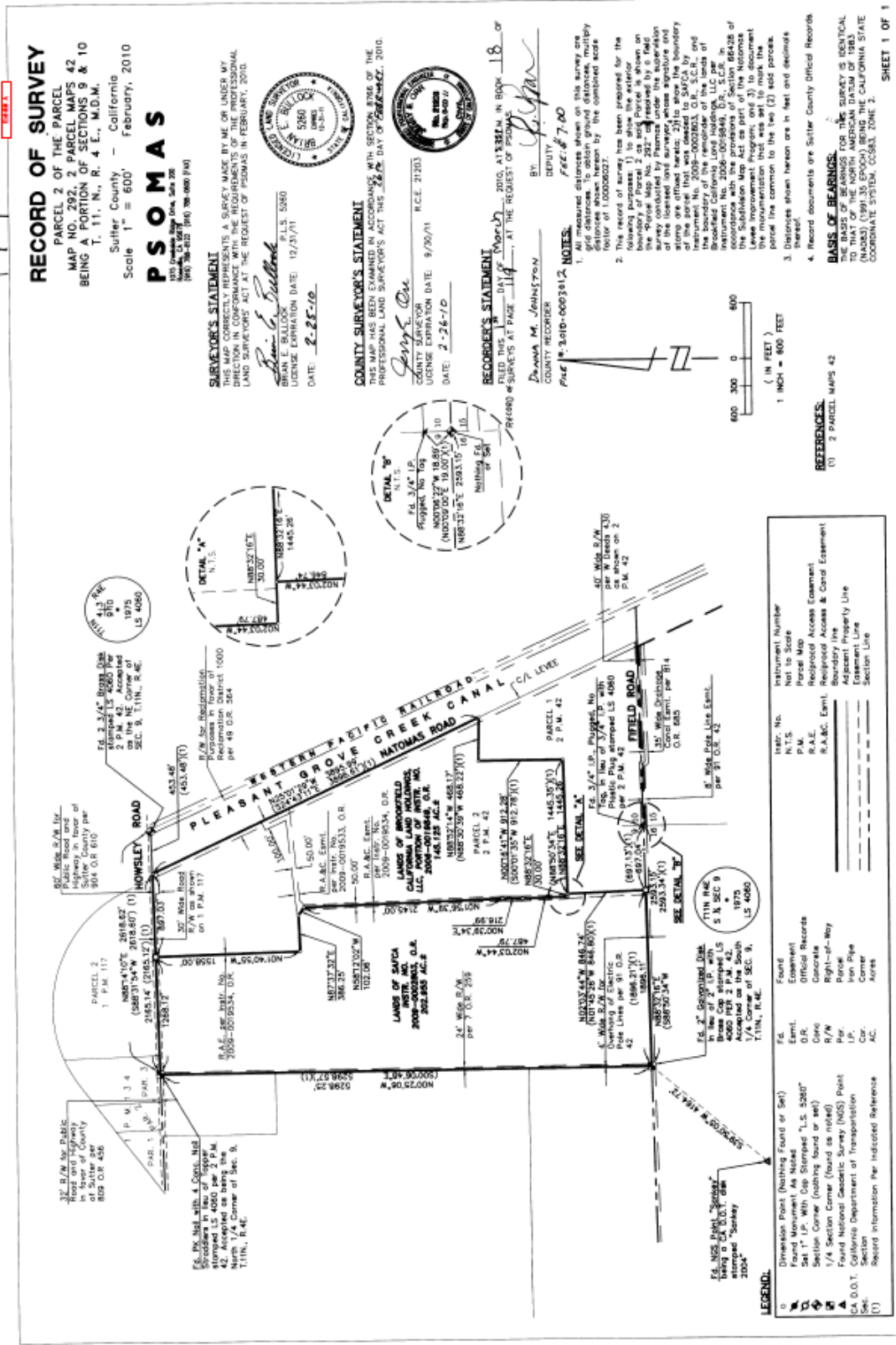


EXHIBIT B

