COUNTY OF LOS ANGELES

DEPARTMENT OF PARKS AND RECREATION

*"Creating Community Through People, Parks and Programs"*

Russ Guiney, Director

March 20, 2012

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

25 March 20, 2012

Sachi A. Hamai

SACHI A. HAMAI
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF AN OPERATING AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE COUNTY OF LOS ANGELES FOR PLACERITA CANYON STATE PARK (SUPERVISORIAL DISTRICT 5) (3 VOTES)**

**SUBJECT**

Approval of a 50-year Agreement, with a 50-year extension option, between the State of California and the County of Los Angeles for the operation, maintenance, development, and control of Placerita Canyon State Park.

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Find the proposed Operating Agreement categorically exempt from the California Environmental Quality Act in accordance with Section 15301 and Class 1 of the Environmental Document Reporting Procedures and Guidelines, adopted by your Board on November 17, 1987 because the project consists of operation and licensing of an existing facility.

2. Delegate authority to the Director of Parks and Recreation, or his designee, to execute a 50-year Operating Agreement between the State of California and the County of Los Angeles for the operation, maintenance, development, and control of Placerita Canyon State Park, and all future amendments, modifications, extensions, renewals and augmentations to said Operating Agreement if it is deemed necessary and in the best interest of the County of Los Angeles.

3. Approve and adopt the attached Resolution authorizing the Director of Parks and Recreation as an agent for the County of Los Angeles, to accept and execute the Operating Agreement between the State of California and the County of Los Angeles for Placerita Canyon State Park.

## PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The State has acquired, for park and recreational purposes, certain real property known as Placerita Canyon State Park located within the County of Los Angeles.

The State and County desire to enter into an Operating Agreement for the continued development, operation, control, and maintenance of Placerita Canyon State Park by the County.

The State Legislature in the Budget Act of 2004/2005 authorized the State and County to enter into said Operating Agreement.

Approval of the recommended actions will approve the Operating Agreement between the State and the County for the care, maintenance, development, protection, operation, and control of the Placerita Canyon State Park by the County.

### Implementation of Strategic Plan Goals

The recommended Operating Agreement will further the County's Strategic Plan Goals of Operational Effectiveness (Goal 1), by creating partnerships with external agencies to efficiently improve the delivery and quality of services; and Children, Family, and Adult Well-Being (Goal 2), by strengthening partnerships with other governmental agencies and maximizing existing resources.

## FISCAL IMPACT/FINANCING

There are no fees charged to the County for the operation of Placerita State Park and does not create a fiscal impact to the County.

### Operating Budget Impact

Based on the recommended actions, the Department of Parks and Recreation does not anticipate any one-time or on-going costs. The contract provisions have maintenance requirements that will be fulfilled with existing park staff and resources.

## FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to the provision of Article 2 of Chapter 1.2 of Division 5, commencing with Section 5080.30 seq., of the California Public Resource Code, the State may enter into an Operating Agreement with any city, county, district, public agency, or combination thereof of the State for the care, maintenance, administration, development and control of lands under the jurisdiction of State for the purpose of the State Park System.

The 50-year Operating Agreement allows either party the right of termination on one years notice to the other party.

County Counsel has approved the contract and resolution as to form.

## ENVIRONMENTAL DOCUMENTATION

The proposed Operating Agreement is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15301 of the State CEQA Guidelines and Class 1 of the Environmental Document Reporting Procedures and Guidelines, adopted by your Board on November 17, 1987 because the project consists operation and licensing of an existing facility.

## CONTRACTING PROCESS

On November 1, 1949, the Board of Supervisors approved a 50-year Operating Agreement with the State of California for Placerita Canyon State Park. On June 22, 1956, the California State Park Commission, with the approval of the Board, terminated the 50-year Operating Agreement and replaced it with a 25-year Operating Agreement commencing on the first day of July 1956.

On July 1, 1981, your Honorable Board approved a five-year Operating Agreement which terminated on June 30, 1986. Since that time the park has been operating on a month-to-month lease.

## IMPACT ON CURRENT SERVICES (OR PROJECTS)

Placerita Canyon State Park serves visitors from its surrounding communities. The approval of the Operating Agreement will allow the County of Los Angeles Department of Parks and Recreation to provide recreational area and programming opportunities for the enjoyment of park visitors. The proposed Operating Agreement will not have a negative impact on current park services or projects.

**CONCLUSION**

It is requested that three adopted copies of the action taken by your Board be forwarded to the Department of Parks and Recreation.

Respectfully submitted,

RUSS GUINEY
Director

RG:JW:RAM
KEH:SS:IS:bs

Attachments

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors

**RESOLUTION APPROVING THE OPERATING AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE COUNTY OF LOS ANGELES FOR PLACERITA CANYON STATE PARK**

**WHEREAS,** pursuant to the provisions of Article 2 of Chapter 1.2 of Division 5 (commencing with Section 5080.30) of the Public Resources Code of the State of California, the State may enter into contracts with political subdivisions of the State of California for the care, maintenance, administration, and control, for the purpose of the State Park System; and of lands under the jurisdiction of State; and

**WHEREAS,** the State of California (State) and the County of Los Angeles (County) have entered into a prior Operating Agreement for the operation and maintenance of Placerita Canyon State Park by the County; and

**WHEREAS,** said agreement expired on June 30, 1986 and since this time the park has been operating on a monthly lease; and

**WHEREAS**, the State of California Department of Parks and Recreation is committed to working with local governments for acquiring and developing facilities within urban areas to meet urban recreation needs; and

**WHEREAS,** in the 2004 Budget Act, the California Legislature approved an item allowing the California Department of Parks and Recreation to enter into a 50-year Operating Agreement with the County for the operation and maintenance of Placerita Canyon State Park; and

**WHEREAS,** the County will not be charged a fee by the State for the operation of Placerita Canyon State Park.

**RESOLUTION APPROVING THE OPERATING AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE COUNTY OF LOS ANGELES FOR PLACERITA CANYON STATE PARK**

**WHEREAS,** pursuant to the provisions of Article 2 of Chapter 1.2 of Division 5 (commencing with Section 5080.30) of the Public Resources Code of the State of California, the State may enter into contracts with political subdivisions of the State of California for the care, maintenance, administration, and control, for the purpose of the State Park System; and of lands under the jurisdiction of State; and

**WHEREAS,** the State of California (State) and the County of Los Angeles (County) have entered into a prior Operating Agreement for the operation and maintenance of Placerita Canyon State Park by the County; and

**WHEREAS,** said agreement expired on June 30, 1986 and since this time the park has been operating on a monthly lease; and

**WHEREAS**, the State of California Department of Parks and Recreation is committed to working with local governments for acquiring and developing facilities within urban areas to meet urban recreation needs; and

**WHEREAS,** in the 2004 Budget Act, the California Legislature approved an item allowing the California Department of Parks and Recreation to enter into a 50-year Operating Agreement with the County for the operation and maintenance of Placerita Canyon State Park; and

**WHEREAS,** the County will not be charged a fee by the State for the operation of Placerita Canyon State Park.

**NOW, THEREFORE, BE IT RESOVED** that the Director of the Department of Parks and Recreation is authorized to sign and accept, on behalf of the County of Los Angeles and the Board of Supervisors of the County of Los Angeles the Operating Agreement with the State of California to operate and maintain Placerita Canyon State Park for a term of fifty (50) years.

The foregoing resolution was executed on the 20th day of March, 2012 and adopted by the Board of Supervisors of the County of Los Angeles and ex-officio the governing body of all other special assessment and taxing districts, agencies, and authorities for which said Board acts.

**COUNTY OF LOS ANGELES**

By _____
Zev Yaroslavsky
Chair, Board of Supervisors

**APPROVED AS TO FORM:**

JOHN KRATTLI
Acting County Counsel

By _____
Christina A. Salseda
Principal Deputy County Counsel

ATTEST: SACHI A. HAMAI
EXECUTIVE OFFICER
CLERK OF THE BOARD OF SUPERVISORS

By _____, Deputy

# OPERATING AGREEMENT

for

Placerita Canyon State Park

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# OPERATING AGREEMENT

with

County of Los Angeles

for

Placerita Canyon State Park

THIS OPERATING AGREEMENT (Agreement), by and between STATE OF CALIFORNIA, acting through the Department of Parks and Recreation, hereinafter referred to as "**State**", and County of Los Angeles, hereinafter referred to as "**County**".

W I T N E S S E T H:

Whereas, pursuant to the provisions of Section 5080.30, et seq., of the California Public Resources Code, State may enter into an operating agreement with any city, county, district, public agency, or combination thereof of the State of California for the care, maintenance, administration, and control of lands under the jurisdiction of State for the purpose of the state park system; and

Whereas, State has acquired for park and recreational purposes certain real properties known as Placerita Canyon State Park located within Los Angeles County; and

Whereas, State and County desire to enter into an Agreement to provide for the development, operation, control, and maintenance of Placerita Canyon State Park by County; and

Whereas, the Legislature in the Budget Act of 2004/2005 has authorized the State and County to enter into said Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

## 1. PREMISES

State authorizes County to develop, operate, control, and maintain Placerita Canyon State Park as shown in "**Exhibit A**", attached and hereby made

a part hereof, hereafter "Premises". County agrees to accept Premises, including facilities covered by this Agreement, and take the same in their present condition "AS IS" with all faults, and agrees to maintain the same in a safe and tenable condition, and, at any termination of this Agreement, to promptly turn back the same to State in the same or better condition, reasonable wear and tear excepted. State shall not be obligated to make any alterations, additions, or betterments to the Premises except as otherwise provided for in this Agreement. This Agreement is not intended to and does not create any third party rights and in no event shall be relied on by any party other than County and State.

## 2. TERM

The term of this Agreement shall be for a period of fifty (50) years, with the State's option to extend up to an additional fifty (50) years, and shall commence on the first of the month following approval by the State Department of General Services.

## 3. USE OF PREMISES

County agrees to develop, operate, control, and maintain the Premises as a State Park, with related concessions and/or other facilities accessible and subject to the use and enjoyment of the general public. Development and operation of the Premises shall be conducted in accordance with all applicable State general planning principles, State Commission policies and all federal, state, and local government statues, laws, and regulations.

Upon written permission of State, County may improve the Premises by constructing and operating any and all facilities and/or structures that relate to or otherwise enhance County's operation of the Premises under this Agreement. These facilities shall not adversely affect the use and enjoyment of the Premises by the public.

County may adopt rules and regulations for the use and enjoyment of the Premises by the public. Any such rules and regulations adopted by County shall conform to and be consistent with the rules and regulations adopted by State and

generally applicable to the California State Park system. The Premises shall not be used for any purpose other than those permitted by this Agreement.

County shall not use or permit the Premises to be used in whole or in part during the term of this Agreement for any purpose other than as herein set forth without the prior written consent of the State.

## 4. CONSIDERATION

A. In consideration of the services to be performed by County pursuant to this Agreement, State hereby authorizes the use of the Premises by County on a rent-free basis on the condition that County exert a good faith effort in performing the terms and conditions of this Agreement in managing the Premises and operating the nature center and natural area. Upon the approval or adoption of any future funding initiative that results in the elimination of County's ability to generate fee revenue through their operation of the Premises, State hereby agrees to allocate to County for its operation, management, planning, and development of Premises an equitable share of revenues based in part on Annual Revenue and Expenditure Reports submitted to State during the three-year period preceding the passage of such initiative, and by mutual agreement between County and State. In the event that County fails to perform in good faith, or County and State are unable to reach agreement on a funding allocation to County from any future funding initiative as described in this Section, the Premises shall revert back to the State, at State's option, and State shall have the right to pursue any other remedies available under this Agreement and/or otherwise available by law.

B. Any income to County derived from its control and operation of Premises for services, benefits, or accommodation to the general public, or otherwise, shall be used only for the maintenance, operation, administration, improvement, or development of lands and/or facilities located within Placerita Canyon State Park. Any such portion of income as may exceed costs and expenses described in this Section shall be remitted to the State in accordance with Public Resources Code Section 5080.32(b).

## 5. CONSTRUCTION AND COMPLETION OF IMPROVEMENTS

A. At no cost or expense to State, County may undertake new construction, reconstruction, alteration, and maintenance to enhance public recreation facilities subject to prior written approval by State. In the event that County desires to make modifications, improvements, or additions to the Premises or any part of the Premises, including changes to structural design, landscape design, or interior or exterior fixtures, design, and/or furnishings, (collectively "Alteration(s)"), written approval by State shall be obtained prior to the commencement of any Alterations. State shall dictate the plan approval process. All modifications and additions shall be made in accordance with State's standards for construction and completion of improvements. Further, all Alterations shall be made in accordance with State's general planning principles and with all applicable state and federal laws, rules and regulations.

B. Once prior approvals, permits, etc. have been received as required herein above, and the work on any Alteration has begun, County shall pursue to completion with reasonable diligence all approved Alterations. All work shall be performed in a professional manner, and will comply substantially with plans and specifications submitted to State as required herein and with all applicable governmental permits, laws, ordinances, and regulations. It shall be the responsibility of County, at its own cost and expense, to obtain all licenses, permits, security, and other approvals necessary for the construction of approved Alterations. County shall comply with public bidding requirements as set forth in the California Public Contract Code.

C. For all Alterations erected on the Premises by County, upon completion of construction, County shall (1) record a Notice of Completion, with a copy provided to the State; (2) provide State with a complete set of "as-built" plans for all improvements in a format reasonably acceptable to State; (3) submit evidence that all improvements are clear of any mechanic's liens or stop notices; (4) submit a verified accounting of the cost for Alterations, excluding equipment and trade fixtures that are the personal property of County; and (5) submit a

verified report demonstrating full compliance with the pertinent state and federal accessibility laws, including but not limited to, the Americans with Disabilities Act of 1990, Titles I, II and III.

D. Title to all Alterations existing or hereafter erected on Premises, regardless of who constructs such improvements, shall immediately become State's property, and, upon termination of this Agreement, all improvements shall become part of the realty and title to the Premises and shall vest in State, without compensation to County. County agrees never to assail, contest, or resist said title. The foregoing notwithstanding, State may elect, by notice to County, that County must remove any Alterations that are peculiar to County's use of the Premises and are not normally required or used by State and/or future occupants of the Premises. In this event, County shall bear the cost of restoring the Premises to their condition prior to the installment of the Alterations.

## 6. MAINTENANCE OBLIGATIONS OF COUNTY

A. During the term of this Agreement and at County's own cost and expense, County shall maintain and operate the Premises including equipment, personal property, and Alterations or improvements of any kind that may be erected, installed, or placed thereon in a clean, safe, wholesome, and sanitary condition free of trash, garbage, or obstructions of any kind. During the term of this Agreement it shall be the County's responsibility to ensure that the Premises are maintained to the satisfaction of State. All construction, operation, and maintenance shall be in accordance with all laws, codes, regulations, ordinances, and generally accepted industry standards pertaining to such work.

B. Should County fail, neglect, or refuse to undertake and complete any required maintenance, State shall have the right to perform such maintenance or repairs for the County. In this event, County shall promptly reimburse State for the cost thereof, provided, however, that State shall first give County ten (10) days written notice of its intention to perform such maintenance or repairs. State shall not be obligated to make any repairs to or maintain any improvement on the Premises. County hereby expressly waives the right to

make repairs at the expense of the State and the benefit of Sections 1941 and 1942 of the California Civil Code relating thereto, if there be any. State has made no representations respecting the condition of the Premises, except as specifically set forth in this Agreement.

C. State reserves the right to enter the Premises for inspection and work related to its care and maintenance during the term hereof, provided that State shall give County reasonable written notice of its intention to do any of the work herein mentioned before such work is undertaken.

## 7. CONCESSIONS

Subject to prior written approval by State, County may grant concessions in or upon the Premises consistent with the requirements of State under Sections 5080.33 and 5080.34 of the California Public Resources Code. All concession contracts shall be subject to the requirements of the California Public Resources Code Section 5080.20 and shall be assumable and/or subject to termination by State, at State's sole discretion, in the event this Agreement is terminated by its terms. No concessions that exploit public lands for commercial purpose shall be granted by County. Further, all concession contracts shall be made subject to audit by State. State shall have the right, through its representative and at all reasonable times, to examine and copy all working papers supporting Concessionaire's annual financial statement. In addition, the State, acting through its representative, may conduct additional independent reviews of the concession operations upon written notification of such intent to County.

## 8. TAXES

County, by signing this Agreement, acknowledges that occupancy interest and rights to do business on State property may create a possessory interest as that term is defined in Revenue and Taxation Code Section 107.6, which possessory interest may subject a concessionaire to liability for the payment of property taxes levied on such possessory interest. County and/or any concessionaire engaged by County shall pay all lawful taxes, assessments, or

charges that may be levied by the State, County, City, or any tax or assessment levying body at any time upon any interest in or created by this Agreement, or any possessory right that County and/or any concessionaire may have in or to the Premises covered hereby or the improvements thereon, by reason of County and/or any concessionaire's use or occupancy thereof or otherwise, as well as all taxes, assessments, and charges on goods, merchandise, fixtures, appliances, equipment, and property owned by County and/or any concessionaire in or about the Premises.

## 9. RECORDS AND ACCOUNTS

A. At all times during the term of this Agreement, County shall keep separate, true, and complete books, records, and accounts of all income and fees received and all expenditures made by County in relation to concessions, events, special services, and all other matters incident to the development, control, and operation of the Premises. County shall report said income and expenditures to State in accordance with "**Exhibit B"** Annual Revenue and Expenditure Report, or in a similar format acceptable to State on an annual basis, which annual report shall be submitted for the period commencing July 1st and ending June 30th of each reporting year, and shall be filed with State no later than the following September 30th. In addition, within forty-five (45) days of the expiration or termination of this Agreement, County shall submit to State a statement of income and expenditures for the period of operation not previously reported, prepared as set forth above.

B. County shall provide State with an annual attendance report to include a reasonable estimate of the number of visitors and vehicles to Placerita Canyon State Park. Such annual report shall be submitted to State by the 15th day of the following month after the year closes.

C. The books, records, and accounts applying to the operation of the Premises and kept by County shall be open for audit or inspection by State at all reasonable times. All records shall be kept by County for a period of at least four

(4) years. County shall be subject to State's audit requirements and remedies as set forth herein.

## 10. UTILITIES AND SERVICES

County shall be responsible for all expenses resulting from utilities supplied to the Premises. County shall be responsible for distribution systems and all related expenses within the Premises.

## 11. INSURANCE

A. Liability Insurance: At its sole expense, County agrees to maintain in force during the term of this Agreement comprehensive general liability insurance, insuring against claims for injuries to persons or property occurring in, upon, or about Premises. The insurance shall have limits of not less than ONE MILLION DOLLARS ($1,000,000) for injuries to person or persons; not less than ONE MILLION DOLLARS ($1,000,000) for property damage; and said limits shall be per occurrence and shall be adjusted annually to reflect changes in the prior year's Consumer Price Index (CPI).

B. Fire Insurance: Fire insurance with extended coverage endorsements thereon on all improvements located on the Premises, whether furnished by State or constructed upon the Premises by County and/or any concessionaire, in an amount equal to the full replacement cost and/or value thereof. This policy shall contain a replacement cost endorsement naming the County and/or any concessionaire as the insured provided that if there is a lender on the security of the improvements so insured, the proceeds of any such policy or policies may be made payable to such lender.

C. State agrees that County, at County's option, may self-insure the coverage's required by this Section.

D. Each policy of liability insurance shall contain additional named insured endorsements in the name of the State of California, through its Department of Parks and Recreation, as to all insurable interests of the State including, but not limited to, the Premises and all contents as follows:

1) State of California, its officers, employees, and servants are included as additional insured but only insofar as operations and facilities under this Agreement are concerned;

2) The insurer will not cancel or reduce the insured's coverage without thirty (30) days prior written notice to State.

E. No cancellation provision in any insurance policy shall diminish the responsibility of the County to furnish continuous insurance throughout the term of the Agreement. Each policy shall be underwritten to the satisfaction of the State. A signed Certificate of Insurance, with each endorsement required, including but not limited to State's additional insured endorsement, shall be submitted to State at the time this Agreement is executed, showing that the required insurance has been obtained. Further, at least thirty (30) days prior to the expiration of any such policy, County shall submit to State a signed and completed Certificate of Insurance, with all endorsements required by this Section, showing, to the satisfaction of State, that such insurance coverage has been renewed or extended. Within fifteen (15) days of State's request, County shall furnish State with a signed and complete copy of the required policy and/or evidence of self-insurance.

F. County agrees to impose the foregoing insurance requirements on any and all concessionaires and shall require that State be named as an additional insured on all policies. Failure to provide any of the required insurance and/or endorsements shall constitute a material breach of this Agreement.

## 12. HOLD HARMLESS AGREEMENT

County shall indemnify, hold harmless, and defend State, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, or liability costs, (including but not limited to attorney fees, experts fees, and costs of suit), arising indirectly or directly out of the development, operation, or maintenance of the Premises by County, or in any way related to the performance of this Agreement by County, by reason of its acts or omissions relating to the Premises and/or its obligation pursuant to this Agreement and/or

by reason of injury, death, property damage, or any claim arising from the alleged violations of any state or federal law, statute, or regulations, including but not limited to the Americans with Disabilities Act of 1990 Titles I, II and III ["ADA"], however caused or alleged to have been caused, provided, however, in no event shall County be obligated to defend or indemnify State with respect to the sole negligence or willful misconduct of State, its employees, or agents (excluding County herein, or any of its concessionaires.).

In the event State is named as co-defendant in a legal action under the provisions of the Government Code Section 810 et seq., and served with process of such legal action, State shall immediately notify County of such fact and County shall represent State in such legal action as provided herein unless State undertakes to represent itself as co-defendant in such legal action, in which event State shall bear its own litigation costs, expenses, and attorney's fees.

In the event judgment is entered against State and County because of the concurrent negligence of State and County, their officers, agents, or employees, an apportionment of the liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.

## 13. EMINENT DOMAIN PROCEEDINGS

If the Premises or any portion thereof is taken by proceedings in eminent domain, State shall receive the entire award for such taking.

## 14. PROHIBITIONS AGAINST ASSIGNING, SUBLETTING

This Agreement and/or any interest therein or thereunder shall not be assigned, delegated, mortgaged, hypothecated, or transferred by County without obtaining the prior written consent of State.

## 15. NOTICES

Any notice and/or report required to be given or that may be given by either party to the other shall be deemed to have been fully given when made in

writing and deposited in the United States Postal Service, postage prepaid, and addressed as follows:

State: Department of Parks and Recreation
Angeles District
1925 Las Virgenes Road
Calabasas, California 91302
818-880-0363

County: County of Los Angeles
Department of Parks and Recreation
433 South Vermont Avenue
Los Angeles, California
(213) 738-2961

Copy to: Department of Parks and Recreation
Concession and Reservations Division
P.O. Box 942896
Sacramento, California 94296-0001
916-653-7733

## 16. DEFAULTS AND REMEDIES

Any failure by a party to this Agreement to observe or perform a provision of this Agreement, where such failure continues for thirty (30) days after written notice of such failure, shall constitute a default and breach of this Agreement. However, if the nature of the default is such that it cannot be reasonably cured within the thirty (30) day period, the offending party shall not be deemed to be in default if an effective cure is commenced within the thirty (30) day period and thereafter diligently prosecuted to completion. Upon an event of default by State, County shall have the right to terminate this Agreement by providing written notice to State.

Upon an event of default by County, State shall have the right to terminate this Agreement and obtain immediate possession of the Premises at any time by written notice to County. In such event, State shall be entitled to all rights and

remedies at law and/or in equity, including but not limited to, costs and expenses incurred by State in recovering possession of and/or restoring the Premises.

## 17. TERMINATION

A. Notwithstanding the provisions of Paragraph 16 DEFAULTS AND REMEDIES, either party may terminate this Agreement for any reason. The party who wishes to terminate the Agreement shall give written notice of its intention no later than three hundred and sixty five (365) days before the scheduled termination date. Such notice shall be given in writing and shall be effective on the date given in the notice as the scheduled date for the termination of the Agreement.

B. In the event that the State is the party choosing to terminate the Agreement, the State shall pay to County on the termination date a sum of money equal to the depreciated cost, as determined by an industry standard depreciation formula, of the State-approved improvements installed or constructed upon the Premises by the County with the following exceptions, (a) improvements erected with funds realized fully through income from the Premises, and (b) improvements the cost of which County has been fully paid or reimbursed by State through grants or other State sources. It is expressly understood that the reimbursement provisions are not applicable where State terminates this Agreement for any breach on the part of County. In the event of breach, bankruptcy, insolvency, abandonment, or termination of Agreement upon County's request, the reimbursement provisions shall not apply and shall not be considered an obligation of the State.

C. State may not commence termination proceedings until such time as the funds required for such termination and reimbursement have been obtained through appropriations by the Legislature and through the normal budgeting process of the State.

## 18. SURRENDER OF THE PREMISES; HOLDING OVER

A. Surrender: On expiration or within thirty (30) days after earlier termination of this Agreement, County shall surrender the Premises to State with all fixtures, improvements, and Alterations in good condition, except for fixtures, improvements, and Alterations that County is obligated to remove. County shall remove all of its personal property and shall perform all restoration required by the terms of this Agreement within the above stated time unless otherwise agreed to in writing.

If County fails to surrender the Premises to State on the expiration, assignment, or within thirty (30) days after earlier termination of the term as required by this Section, County shall hold State harmless for all damages resulting from County's failure to surrender the Premises.

B. Holding Over: After the expiration or earlier termination of the term and if County remains in possession of the Premises with State's expressed or implied consent, such possession by County shall be deemed to be a temporary tenancy from month-to-month terminable on thirty (30) days written notice given at any time by either party. All provisions of this Agreement except those pertaining to the term shall apply to the temporary tenancy.

## 19. REAL PROPERTY ACQUISTION

It is understood and agreed to by the parties that all applications for real property rights, appurtenant to the Premises, shall be made in the name of and on behalf of State, and shall be subject to the prior written approval of State.

## 20. COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES

County and its officers, agents, and employees shall comply with all applicable laws, rules, regulations, and orders existing during the term of this Agreement, including obtaining and maintaining all necessary permits and licenses. County acknowledges and warrants that it is, or will make itself, through its responsible managers, knowledgeable of all pertinent laws, rules, ordinances, regulations, or other requirements having the force of law affecting

the operation of the Premises, including but not limited to laws affecting health and safety, hazardous materials, pest control activities, historical preservation, environmental impacts, and building standards.

## 21. NONDISCRIMINATION

Pursuant to Public Resources Code Section 5080.34, this Agreement and every Agreement on lands that are subject to this Agreement shall expressly prohibit discrimination against any person because of sex, sexual orientation, race, color, religious creed, marital status, ancestry, national origin, medical condition, age (40 and above), and disability (mental and physical) including HIV and AIDS.

County shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, §12900 et seq.) and the applicable regulations promulgated thereunder (Cal. Code Regs, tit. 2, §7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12990 (a)-(f), are incorporated into this agreement by reference and made a part hereof as if set forth in full (Cal. Code Regs, tit. 2, §7285.0 et seq.). County shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement related to this Agreement. County shall include the non-discrimination and compliance provisions of this clause in all contracts to perform work under and/or in connection with this Agreement.

In the event of violation of this Section, State will have the right to terminate this Agreement.

## 22. DISABILITY ACCESS LAWS

With regard to all operations and activities that are the responsibility of County under this Agreement, and without limiting County's responsibility under this Agreement for compliance with all laws, County shall be solely responsible for complying with the requirements of the Americans with Disabilities Act of 1990 (ADA) (Public Law 101-336, commencing at Section 12101 of Title 42,

United States Code, including Titles I, II, and III of that law), the Rehabilitation Act of 1973, and all related regulations, guidelines, and amendments to both laws.

With regard to facilities for which County is responsible for operation, maintenance, construction, restoration, or renovation under this Agreement, County also shall be responsible for compliance with Government Code Section 4450, et seq., Access to Public Buildings by Physically Handicapped Persons, and Government Code Section 7250, et seq., Facilities for Handicapped Persons, and any other applicable laws, regulations, guidelines and successor statutes. Such compliance shall be at County's sole cost and expense. Written approval from State is required prior to implementation of any plans to comply with accessibility requirements.

## 23. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

By signing this Agreement, County does hereby swear, under penalty of perjury, that no more than one final, unappealable finding of contempt of court by a federal court has been issued against County within the two-year period immediately preceding the date of this Agreement because of County's failure to comply with a federal court order that County shall comply with an order of the National Labor Relations Board.

## 24. ENVIRONMENTAL AWARENESS AND RESOURCE PROTECTION

County shall comply with State's resource management and preservation mandates in the conduct of all activities that impact cultural, natural, or scenic resources. These mandates include the California Public Resources Code Sections 5024 and 5097 et seq., State's Resource Management Directives, and the United States Secretary of the Interior's Guidelines for Historic Preservation.

## 25. HAZARDOUS SUBSTANCES

A. On the Premises County shall not:

1) keep, store, or sell any goods, merchandise, or materials that are in any way explosive or hazardous;

2) carry on any offensive or dangerous trade, business, or occupation;

3) use or operate any machinery or apparatus that shall injure the Premises or adjacent buildings in any way; or

4) do anything other than is provided for in this Agreement.

B. Nothing in this Section shall preclude County from bringing, keeping, or using on or about said Premises such materials, supplies, equipment, and machinery as is appropriate or customary in the care, maintenance, administration, and control of parklands. Gasoline, oils, and all other materials considered under law or otherwise to be hazardous to health and safety shall be stored, handled, and dispensed as required by present or future regulations and laws.

C. County shall comply with all laws, federal, state, or local, existing during the term of this Agreement pertaining to the use, storage, transportation, and disposal of any hazardous substance, as that term is defined in such applicable law. In the event the State or any of its affiliates, successors, principals, employees, or agents should incur any liability, cost, or expense, including attorney's fees and costs, as a result of the County's illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, County shall protect, indemnify, defend, and hold harmless any of these individuals against such liability. Where County is found to be in breach of this provision due to the issuance of a government order directing County to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition directly caused by County or any person acting under County's direct control or authority, County shall be responsible for all costs and expenses of complying with such order including any and all expenses imposed on or incurred by the State in connection with or in response to such government order.

D. Notwithstanding the foregoing, in the event a government order is issued naming County, or County incurs any liability during or after the term of the Agreement in connection with contamination that preexisted the County's obligations and occupancy under this Agreement, or prior agreements or that were not directly caused by County, the State shall be solely responsible as between County and State for all expenses and efforts in connection wherewith, and State shall reimburse County for all reasonable expenses actually incurred by County therewith.

E. All pest control activities, chemical and non-chemical, shall be approved by State prior to action by the County. County or the pest control business acting on behalf of County shall submit a DPR 191, Pest Control Recommendation, or equivalent to State for approval. State has fourteen (14) days to approve or deny the request. State review and approval shall be solely for compliance with State's policies and in no way shall relieve County or its contractors, employees, agents, or representatives from compliance with all laws and regulations concerning such activities, nor from carrying out the work in a workmanlike manner.

County or the pest control business acting on behalf of County shall submit a report of completed work for each pest management action to the State no later than seven (7) days after performance of the work. The report may be submitted on a DPR 191, Pest Control Recommendation, or equivalent.

## 26. SIGNS AND ADVERTISING

County agrees to include California State Parks name and logo on all signs or advertising matter inscribed, painted, or affixed upon Premises. All signs and advertising must be consistent with the purposes of this Agreement.

## 27. INTELLECTUAL PROPERTY RIGHTS

Any names, logos, trademarks, and/or copyrights developed during and/or pursuant to this Agreement that in any way associate, identify, or implicate an affiliation with California State Parks shall be approved by State for use, shall

belong to State upon creation, and shall continue in State's exclusive ownership upon termination of this Agreement.

Any works developed by County pursuant to this Agreement, including all related copyrights and other proprietary rights therein, shall belong to State upon creation, and shall continue in State's exclusive ownership upon termination of this Agreement. These works shall include, but are not limited to, all drawings, designs, reports, specifications, notes, and other work developed in the performance of this Agreement. Upon request, County shall deliver to State the disk or tape that contains the design files of any work that is performed with the assistance of Computer Aided Design and Drafting Technology, and shall specify the supplier of the software and hardware necessary to use said design files. County intends and agrees to assign to State all rights, title, and interest in and to such materials as well as all related copyrights and other proprietary rights therein, unless otherwise agreed to in writing.

County warrants that it is the sole exclusive owner and has the full right, power, and authority over all tangible and intangible property deliverable to State in connection with this Agreement, and that title to such materials conveyed to State shall be delivered free and clear of all claims, liens, charges, judgments, settlements, encumbrances, or security interests.

County agrees not to incorporate into or make any deliverables dependent upon any original works of authorship or Intellectual Property Rights of third parties without (1) obtaining State's prior written permission, and (2) granting to or obtaining for State a nonexclusive, royalty-free, paid-up, irrevocable, perpetual, world-wide license to use, reproduce, sell, modify, publicly and privately perform, publicly and privately display, and distribute, for any purpose whatsoever, any such prior works.

County further warrants that all deliverables do not infringe or violate any patent, copyright, trademark, trade secret, or any other intellectual property rights of any person, entity, or organization. County agrees to execute any documents reasonably requested by State in connection with securing State's registration of patent and/or copyrights or any other statutory protection in such work product

including an assignment of copyright in all deliverables. County further agrees to incorporate these provisions into all of its contracts with architects, engineers, and other consultants or contractors.

County, at its sole expense, shall hold harmless, protect, defend, and indemnify State against any infringement action and/or dispute brought by a third party in connection with any deliverable hereunder. County shall pay all costs, expenses, losses, damages, judgments, and claims including reasonable attorney's fees, expert witness fees, and other costs.

## 28. CHILD SUPPORT COMPLIANCE ACT

A. County recognizes the importance of child and family support relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as obligations and shall fully comply with all applicable state and federal laws provided for in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code.

B. To the best of its knowledge County is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

## 29. DISPUTES

County shall continue with any and all responsibilities under this Agreement during any dispute.

## 30. LIMITATION

This Agreement is subject to all valid and existing agreements, leases, licenses, encumbrances, and claims of title that may affect Premises.

## 31. SECTION TITLES

The section titles in this Agreement are inserted only as a matter of convenience and reference and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect this Agreement.

## 32. AGREEMENT IN COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original.

## 33. INSPECTION

State or its authorized representative shall have the right at all reasonable times to inspect the Premises to determine compliance with the provisions of this Agreement.

## 34. SUCCESSORS IN INTEREST

Unless otherwise provided in this Agreement, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto, all of whom shall be jointly and severally liable hereunder.

## 35. PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

## 36. TIME OF ESSENCE

Time shall be of the essence in the performance of this Agreement.

## 37. DURATION OF PUBLIC FACILITIES

By entering into this Agreement, State makes no stipulation as to the type, size, location, or duration of public facilities to be maintained at this unit, or the continuation of State ownership thereof, nor does the State guarantee the accuracy of any financial or other factual representation that may be made regarding the Premises.

## 38. WAIVER OF RIGHTS, CLAIMS, AND AGREEMENT TERMS

Unless otherwise provided by this Agreement, no waiver by either party at any time of any of the terms, conditions, or covenants of this Agreement shall be deemed as a waiver at any time thereafter of the same or of any other term, condition, or covenant herein contained, nor of the strict and prompt performance thereof. No delay, failure, or omission of the State to re-enter the Premises or to exercise any right, power, or privilege, or option arising from any breach, nor any subsequent acceptance of rent then or thereafter accrued shall impair any such right, power, privilege, or option, or be construed as a waiver of such breach or relinquishment of any right or acquiescence therein. No notice to the County shall be required to restore or revive time as of the essence after the waiver by the State of any breach. No option, right, power, remedy, or privilege of the State shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options, and remedies given to the State by this Agreement shall be deemed cumulative.

## 39. INTERPRETATION OF AGREEMENT

This Agreement is made under and is subject to the laws of the State of California in all respects as to interpretation, construction, operation, effect, and performance.

## 40. INDEPENDENT CONTRACTOR

In the performance of this Agreement, County and the agents and employees of County shall act in an independent capacity and not as officers or employees or agents of the State.

## 41. MODIFICATIONS AND APPROVAL OF AGREEMENT

This Agreement contains and embraces the entire Agreement between the parties hereto and neither it nor any part of it may be changed, altered, modified, limited, or extended orally or by any Agreement between the parties unless such Agreement be expressed in writing, signed, and acknowledged by the State and County or their successors in interest.

Notwithstanding any of the provisions of this Agreement, the parties may hereafter, by mutual consent expressed in writing, agree to modifications thereof, additions thereto, or terminations thereof, which are not forbidden by law. This Agreement, amendments, modifications, or termination thereof shall not be effective until approved by State's relevant control agencies.

**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

| **COUNTY OF LOS ANGELES,** | **STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION** |
|---|---|
| By: _____ | By: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

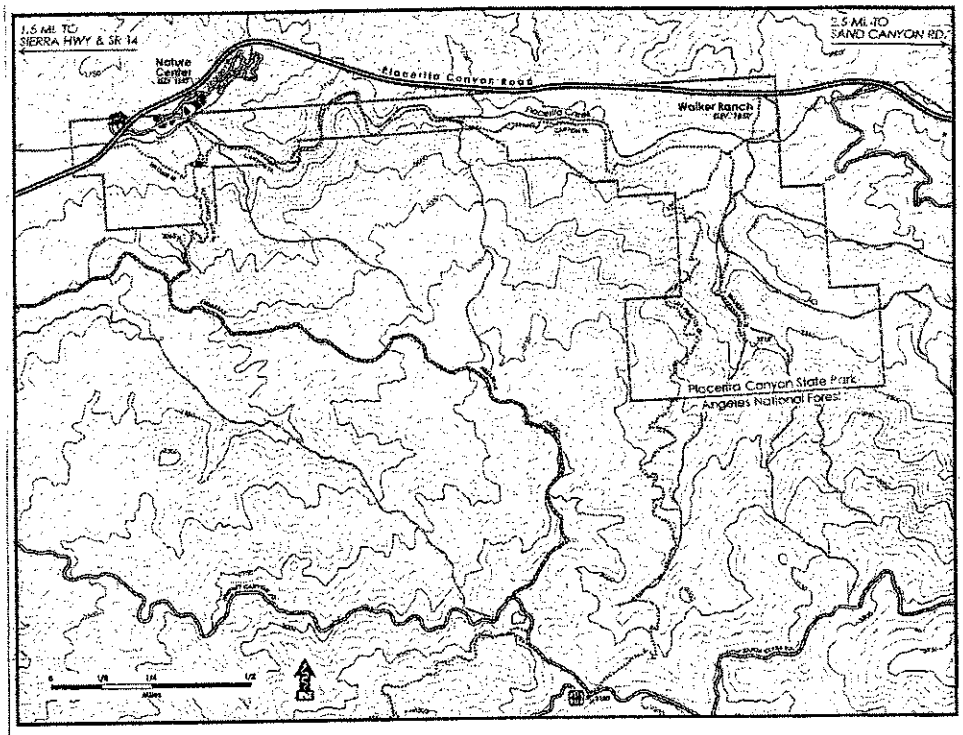
**APPROVED AS TO FORM:**

JOHN KRATTLI
Acting County Counsel

By: _____
Christina Salseda, Principal Deputy County Counsel

**APPROVED:**
**DEPARTMENT OF GENERAL SERVICES**

## EXHIBIT A PREMISES




Premises shall be known as Placerita Canyon State Park and shall include all that certain real property in the county of Los Angeles, State of California as described as follows:

Parcel 1 – Deed from Frank E. Walker, dated June 18, 1949, and recorded on September 27, 1949, in Book 31, 089, Page 107, Official Records of the County of Los Angeles;

Parcel 2 – That patented placer mining claim know as Gladstone Oil and Placer Claim described as the west half of the southwest quarter of the southeast quarter of Section 3, Township 3 North, Range 15 West, San Bernardino Meridian, in the County of Los Angeles, State of California, according to the official plat of said land filed in the District Land Office on January 21, 1875;

EXCEPTING therefrom any veins or lodes of quartz, or other rock, in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits within said limits which may have been discovered or known to exist on or prior to September 1, 1900;

EXCEPTING and reserving to the said grantor, his successors, and assigns all oil, gas, and other hydrocarbon substances in and under said property, but

without the right in the grantor to use or disturb the property within 100 feet of the surface;

Parcel 3 – That patented placer mining claim know as Diamond Oil & Placer Mining Claim described as the south half of the southwest quarter, and the east half of the northeast quarter of the southwest quarter, all in Section 3, Township 3 North, range 15 West, San Bernardino Meridian, in the County of Los Angeles, State of California, according to the official plat of said land filed in the District Land Office on January 21, 1875;

EXCEPTING therefrom any veins or lodes of quartz, or other rock, in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits within said limits which may have been discovered or known to exist on or prior to September 1, 1900;

EXCEPTING and reserving to the said grantor, his successors, and assigns all oil, gas, and other hydrocarbon substances in and under said property, but without the right in the grantor to use of disturb the property within 100 feet of the surface;

Parcel 4 – That patented placer mining claim described as the southwest quarter of the northwest quarter of Section 3, Township 3 North, Range 15 West, San Bernardino Meridian, in the County of Los Angeles, State of California, according to the official plat of said land filed in the District Land Office on January 21, 1875; also the west half of the southeast quarter of the northwest quarter of said Section; also the west half of the northeast quarter of the southwest quarter of said Section; also the east half of the northwest quarter of the southwest quarter of said Section; also that portion of Section 4, Township 3 North, Range 15 West, San Bernardino Meridian, in said County and State, according to the official plat of said land filed in the District Land Office on January 21, 1875, described as follows:

Beginning at the northeast corner of the southeast quarter of the northeast quarter; thence southerly a long the east line of said Section to a point northerly thereon 165 feet from the southeast corner of the said northeast quarter of Section 4; thence westerly parallel with the southerly line of the said northeast quarter, a distance of 330 feet; thence northwesterly a long a direct line to the northeast corner of the southwest quarter of the southeast quarter of the northeast quarter of said Section 4; thence westerly a long the northerly line of the said southwest quarter of the southeast quarter of the northeast quarter to the northwest corner thereof; thence northerly a long the prolongation of the westerly line of the said southwest quarter of the southeast quarter of the northeast quarter, a distance of 165 feet; thence northwesterly a long a direct line to a point in the east line of the northwest quarter of the southwest quarter of the northeast quarter of said Section 4, distant northerly thereon 330 feet from the south line of the last mentioned quarter quarter quarter Section; thence westerly

parallel with the southerly line of the north half of said Section 4, to the west line of the southeast quarter of the northwest quarter of said Section 4; thence southerly thereon 330 feet, more or less, to the south line of the north half of the south half of the northwest quarter of said Section 4; thence westerly a long the last mention south line to the west line of said Section 4; thence north a long the said last mentioned west line to the southerly line of Government Lot 4 in said Section 4; thence easterly a long the southerly lines of Government Lots 4, 3, 2, and 1, in said Section 4 to the point of beginning;

EXCEPTING therefrom any veins or lodes of quartz, or other rock, in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits within said limits which may have been discovered or known to exist on or prior to the 23rd day of December 1890;

EXCEPTING that property that was granted to the County of Los Angeles in Road Deed recorded in Book D57, pages 269-72, March 28, 1958;

EXCEPTING and reserving to the said grantor, his successors, and assigns all oil, gas, and other hydrocarbon substances in and under said property, but without the right in the grantor to use of disturb the property within 100 feet of the surface;

SUBJECT TO covenants, provisions, and reservations of record, and particularly to the right of way 15 feet wide for a single road, as same now exists, branching to the south from the main Placerita Canyon Road, over a portion of the south half of the northeast quarter of the southwest quarter of the northeast quarter of Section 4, and over:

The southwest quarter of the northwest quarter of the southeast quarter of the northeast quarter of Section 4, as granted to Mary E. Mosher, by deed recorded December 11, 1940 in Book 18051, page 87, Official Records, Instrument No. 585;

Parcel 5 – The east 5 acres of that portion of the Leoline Placer Mining Claim, as described in Patent dated July 21, 1913 recorded on August 5, 1913 as Instrument No. 143 in Book 5528, page 232 of Deeds, in the Office of the County Recorder of said County, included within the boundaries of the north half of the southwest quarter of the northeast quarter of section 5, Township 3 North, Range 15 West, San Bernardino Meridian, in the County of Los Angeles, State of California, according to the official plat of said land filed in the District Land Office on February 9, 1882.

EXCEPTING any veins or lodes of quartz, or other rock, in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits within the land above described, which may have been discovered, or known to exist on or prior

to November 2, 1910, as excepted by the Unites States of America, in Patent, recorded in Book 5528, page 232 of Deeds.

ALSO EXCEPTING therefrom such segments of veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits having their tops or apices outside of said premises, which may be found to penetrate, intersect, pass through, or dip into said premises.

**EXHIBIT B**

## Annual Revenue and Expenditure Report

## Operating Agreements

Park Unit _____

Operating Agency _____

State's Fiscal Year _____ to _____

Estimated Total Visitors _____

| | Revenue | Expenditures | Balance |
|---|---|---|---|
| Visitor Entrance Fees | | | |
| Separate Parking Fees | | | |
| Concession A | | | |
| Concession B | | | |
| Concession C | | | |
| Special Events | | | |
| Miscellaneous Revenue | | | |
| Total Annual Revenue | | | |
| | | | |
| Salaries & Wages | | | |
| Maintenance & Housekeeping | | | |
| Utilities | | | |
| Capital Improvement Projects | | | |
| Miscellaneous Expenses | | | |
| Total Annual Expenditures | | | |
| | | | |
| Grand Totals | | | |

Preparer Name _____ Date _____

Phone Number _____