



**TEHACHAPI VALLEY
RECREATION AND PARK DISTRICT
490 WEST D STREET, TEHACHAPI, CA 93561**

**REGULAR BOARD MEETING
TUESDAY, MAY 21, 2019, 5:30 P.M.**

BOARD OF DIRECTORS

IAN STEELE, CHAIRPERSON
KALEB JUDY, DIRECTOR
WES BACKES, DIRECTOR
CRISTIN LASSEN, DIRECTOR

A G E N D A

1. FLAG SALUTE

2. ROLL CALL

3. PUBLIC COMMENTS

The Tehachapi Valley Recreation and Park District Board of Directors welcome public comments on any items within the subject matter jurisdiction of the District. We respectfully request that this public forum be utilized in a positive and constructive manner. Items addressed during Public Comment section are generally matters not included on the posted agenda and therefore the Board will take no action at this meeting. Such items, however, may be added to a future meeting's agenda. Speakers are limited to two (2) minutes. Please state your name or organization represented, if any, before making presentation. Thank you.

4. CONSENT CALENDAR

All items listed on the Consent Calendar shall be considered routine and will be enacted by one vote. There will be no separate discussion of these items unless a member of the Board request specific items to be removed from the Consent Calendar for separate action.

- A. Clerk Declaration of Posting of Agenda 72 Hours in Advance of Meeting (Page 3).
- B. Approval of Minutes from the Regular Board Meeting held April 23, 2019 (Pages 4-6).
- C. Approval of the Preliminary Financial Reports for March 2019 (Pages 7-16).

5. RECREATION SUPERVISOR REPORT

6. OPERATIONS MANAGER REPORT

7. DISTRICT MANAGER REPORT

8. AGENDA ITEMS

- A. Recognition of TVRPD Lifeguard staff members Danielle Louis-Sipes and Jasmine Delgadillo.
- B. License Agreement Between Tehachapi Cummings County Water District, Tehachapi Valley Recreation and Park District and The Kiwanis Club of Tehachapi for the 2020 Tehachapi Paddle Race Festival, Discussion/Approval, (Pages 17-40).

9. BOARD OF DIRECTORS' TIME

Opportunity for the Board to comment on items not listed on the agenda.

10. ADJOURNMENT

Adjourn to the next Regular Meeting of the Board of Directors of the Tehachapi Valley Recreation and Park District scheduled on June 18, 2019.



CERTIFICATE OF POSTING AGENDA

I, the Clerk of the Tehachapi Valley Recreation and Park District Board of Directors hereby certify that a copy of the May 21, 2019, Regular Board Meeting Agenda was posted at the following public places within the District on Friday, May 17, 2019, at 5:30 P.M. approximately:

- TVRPD District Office, 490 West D Street, Tehachapi, California 93561
- The TVRPD Web site at www.tvrpd.org

The agenda and related documents were also provided to the Tehachapi Valley Recreation and Park District Board of Directors on the 17th day of May 2019.

Dated this 17th day of May 2019.

Carrie Champlin
Carrie Champlin
Clerk of the Board of Directors

**MINUTES OF THE REGULAR BOARD MEETING
OF THE TEHACHAPI VALLEY RECREATION AND PARK DISTRICT
490 WEST D STREET, TEHACHAPI, CALIFORNIA 93561
TUESDAY APRIL 23, 2019, 5:30 P.M.**

CALL TO ORDER: Board Meeting Convened By Chairperson Wyatt at 5:31 P.M.

BOARD MEMBERS

Ian Steele, Chairperson
Laura Lynne Wyatt, Vice-Chairperson
Kaleb Judy, Director
Wes Backes, Director
Cristin Lassen, Director

1. FLAG SALUTE: Bill Fisher led the flag salute.

2. ROLL CALL: Director Lassen was absent.

3. PUBLIC COMMENTS:

Two members of the public spoke.

4. CONSENT CALENDAR

A. Secretary Declaration of Posting of Agenda 72 hours in Advance of Meeting Held.

Declaration by the Clerk of the Board of Directors that the agenda was posted at least 72 hours in advance of meeting. BOARD APPROVED SECRETARY DECLARATION.

Wyatt – Judy: Ayes: Steele; Wyatt; Judy; Backes

Noes: None. Motion carried.

Absent: Lassen.

B. Approval of Minutes from the Regular Board Meeting held March 12, 2019.

BOARD APPROVES THE MINUTES FROM THE REGULAR BOARD MEETING HELD ON MARCH 12, 2019.

Wyatt – Judy: Ayes: Steele; Wyatt; Judy; Backes

Noes: None. Motion carried.

Absent: Lassen.

C. Approval of the Preliminary Financial Reports for January and February, 2019.

BOARD APPROVES THE PRELIMINARY FINANCIAL REPORTS FOR JANUARY AND FEBRUARY 2019.

Wyatt – Judy: Ayes: Steele; Wyatt; Judy; Backes

Noes: None. Motion carried.

Absent: Lassen.

5. RECREATION SUPERVISOR REPORT

Recreation Supervisor Corey Torres gave the report.

- Easter Egg Hunt was a fun event for the families in our community.
- Fishing Derby was great. Fishing was really good. Beautiful fish were being caught.
- Spring Adventure Camp was a great success. This is a great addition to the programs we offer.

6. OPERATIONS MANAGER REPORT

Operations Manager Bill Fisher gave the report.

- Brite Lake: Installation of new fire rings, boat dock repair, installation of irrigation for upcoming tree donation.
- Central Park: Replaced one barbeque.
- Maintenance staff hours have been adjusted for the season.

7. DISTRICT MANAGER REPORT

District Manager Vance gave the report.

- Prop 68 grant meetings being held for Sand Canyon, West Park, and Central Park.
- GranFondo planning continues.
- Work continues on the budget.

8. AGENDA ITEMS

A. Annual Audit Engagement Fees and Contract.

BOARD APPROVES ANNUAL AUDIT ENGAGEMENT FEES AND CONTRACT WITH NIGRO & NIGRO PC.

Judy – Backes: Ayes: Steele; Wyatt; Judy; Backes

Noes: None. Motion carried.

Absent: Lassen.

9. CLOSED SESSION:

- a. Public Employee Appointment
Title: Interim General Manager
Government Code Section 54957 (b)

MOTION TO ADJOURN TO CLOSED SESSION AT 6:09 P.M.

Wyatt – Judy: Ayes: Steele; Wyatt; Judy; Backes

Noes: None. Motion carried.

Absent: Lassen.

MOTION TO RECONVENE FROM CLOSED SESSION AT 6:59 P.M.

Wyatt – Judy: Ayes: Steele; Wyatt; Judy; Backes

Noes: None. Motion carried.

Absent: Lassen.

Report on Closed Session:

Board unanimously appointed Corey Torres as Interim District Manager effective April 23, 2019.

Wyatt – Judy; Ayes: Steele; Wyatt; Judy; Backes

Noes: None. Motion carried.

Absent: Lassen.

10. BOARD OF DIRECTORS TIME: Director Backes thanked District Manager Vance for her service to the District. Vice-Chairperson Wyatt stated that she is proud of this District. Chairperson Steele congratulated Corey Torres and Michelle Vance. Chairperson Steele thanked the TVRPD staff for a successful Brite Lake Fishing Derby event.

11. ADJOURNMENT

Having no further business the meeting was adjourned at 7:03 P.M. to the Regular Board meeting of the Directors of Tehachapi Valley Recreation and Park District scheduled on May 21, 2019.

Wyatt – Backes: Ayes: Steele; Wyatt; Judy; Backes

Noes: None. Motion carried.

Absent: Lassen.

Respectfully Submitted,

Carrie Champlin

Carrie Champlin, Clerk of the Board



Tehachapi Valley Recreation and Park District

BALANCE SHEET

As of March 31, 2019

	TOTAL
ASSETS	
Current Assets	
Bank Accounts	
1000 Cash in County Treasury General Fund	381,669.02
1004 Check BOTS 4470	83,009.86
1005 County Treasury Capital Projects Fund	108,468.77
1007 Square Inc	1,420.64
1051 Change Fund	1,100.00
1100 Petty Cash Fund	400.00
Total Bank Accounts	\$576,068.29
Accounts Receivable	
1200 Accounts Receivable	55,228.23
Total Accounts Receivable	\$55,228.23
Other Current Assets	
1070 Prepaid Expenses	7,453.28
1092 Credit Card Receivables	5,540.30
1210 Inventory Asset	3,879.54
Total Other Current Assets	\$16,873.12
Total Current Assets	\$648,169.64
Fixed Assets	
1150 Land	166,734.76
1161 Building	540,391.52
1162 Improvements	3,049,721.76
1163 Equipment	1,137,772.46
1163.1 Equipment Not Placed In Service	869.91
1166 Furniture & Fixtures	27,502.88
1167 Machinery	48,662.24
1170 Accumulated Depreciation	-2,854,505.00
1180 Fleet Vehicles and Equipment	162,109.22
Total Fixed Assets	\$2,279,259.75
Other Assets	
1901 DOR-Employee Contribution after MD	30,756.00
1903 DOR-Difference in Properties	26,746.00
1904 DOR-Difference in Experience	909.00
1906 DOR-Return on Investment	58,067.00
Total Other Assets	\$116,478.00
TOTAL ASSETS	\$3,043,907.39
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2000 Accounts Payable-General Fund	53,884.49

	TOTAL
Total Accounts Payable	\$53,884.49
Credit Cards	
2010 Cardmember Services Payable	16,247.26
2014 Home Depot Payable	1,010.71
Total Credit Cards	\$17,257.97
Other Current Liabilities	
2024 Accrued Vacation, Sick, & Comp Time	39,671.73
2207 Sales tax payable	423.96
2210 Payroll Liabilities	3,117.53
2270 Refundable Deposits	1,000.00
Total Other Current Liabilities	\$44,213.22
Total Current Liabilities	\$115,355.68
Long-Term Liabilities	
2310 Loan Payable 2016	508,744.00
2900 Net Pension Liability	177,761.00
2902 DIR-Difference in Contributions	29,082.00
2903 DIR-Difference in Proportion	47,082.00
2905 DIR-Changes in Assumption	11,157.00
Total Long-Term Liabilities	\$773,826.00
Total Liabilities	\$889,181.68
Equity	
3010 Net Investment In Capital Assets	2,580,724.25
3020 Restricted Funds	268,825.51
3030 Unrestricted Funds	-963,099.57
3110 Retained Earnings	315,088.51
Net Income	-46,812.99
Total Equity	\$2,154,725.71
TOTAL LIABILITIES AND EQUITY	\$3,043,907.39



Tehachapi Valley Recreation and Park District

PROFIT AND LOSS

March 2019

	TOTAL		
	MAR 2019	JUL 2018 - MAR 2019 (YTD)	% OF INCOME
Income			
4010 Property Taxes	10,308.20	506,302.74	17.58 %
4020 Interest Income	1,365.21	6,492.33	2.33 %
4020.1 Interest Income Cap Proj Fund	261.52	727.43	0.45 %
4030 Adult Program Revenues	2,179.00	22,653.16	3.72 %
4050 Facility Revenue	9,457.00	109,861.38	16.13 %
4200 Contracted Classes Revenues	6,012.50	35,304.50	10.25 %
4210 Events Revenues	4,420.25	130,159.34	7.54 %
4213 Operational Grants	5,970.00	32,274.00	10.18 %
4216 Scholarship Donations	25.00	98.00	0.04 %
4300 Youth Program Revenues	15,605.00	103,001.55	26.61 %
4610 Billable Expense Income	3,323.23	10,473.76	5.67 %
4650 Discounts given	-291.40	-4,123.40	-0.50 %
4690 Other Income		200.00	
4704 Sales		215.76	
Total Income	\$58,635.51	\$953,640.55	100.00 %
Cost of Goods Sold			
5001 Adult Program Costs	80.42	3,900.20	0.14 %
5004 Contracted Classes Costs	4,441.91	27,605.48	7.58 %
5005 Events Costs	3,752.84	120,345.98	6.40 %
5008 Youth Program Costs	1,370.48	20,365.67	2.34 %
5110 Scholarship Fund Expense	257.90	3,291.40	0.44 %
5704 Purchases for Resale		2,451.09	
Total Cost of Goods Sold	\$9,903.55	\$177,959.82	16.89 %
GROSS PROFIT	\$48,731.96	\$775,680.73	83.11 %
Expenses			
6000 Employee Costs	50,556.78	534,268.23	86.22 %
7010 Advertising & Marketing	7,845.61	34,561.10	13.38 %
7020 Bank Service Charges	696.41	9,874.33	1.19 %
7025 Cash Short/Over		10.00	
7026 Charitable Contribution		18,200.00	
7030 Dues & Subscriptions	583.41	6,425.52	0.99 %
7035 Equipment Rents & Leases	85.34	1,192.99	0.15 %
7050 Insurance	678.26	18,931.71	1.16 %
7056 Interest Expense		9,911.54	
7060 Licenses & Fees	963.44	9,467.55	1.64 %
7070 Maintenance	11,378.70	59,120.63	19.41 %
7084 Meals & Entertainment	402.15	2,876.12	0.69 %
7090 Office Supplies	2,027.51	11,708.83	3.46 %
7120 Professional Development		510.00	
7150 Professional Fees	16,650.78	99,017.69	28.40 %
7180 Security	179.96	4,426.20	0.31 %

	TOTAL		
	MAR 2019	JUL 2018 - MAR 2019 (YTD)	% OF INCOME
7210 Telephone and Internet	823.84	8,698.41	1.41 %
7230 Uniforms & Apparel	15.44	1,357.73	0.03 %
7250 Utilities	6,211.97	59,073.61	10.59 %
7299 Interest Expense KCA		4,700.45	
7999 Uncategorized Expense	-24.99	0.00	-0.04 %
Total Expenses	\$99,074.61	\$894,332.64	168.97 %
NET OPERATING INCOME	\$ -50,342.65	\$ -118,651.91	-85.86 %
Other Income			
8020 Insurance Settlement Proceeds		1,324.92	
8040 TVRPD Development Fee Revenues	4,274.00	70,514.00	7.29 %
Total Other Income	\$4,274.00	\$71,838.92	7.29 %
NET OTHER INCOME	\$4,274.00	\$71,838.92	7.29 %
NET INCOME	\$ -46,068.65	\$ -46,812.99	-78.57 %



Tehachapi Valley Recreation and Park District

PROFIT & LOSS PRIOR YEAR COMPARISON

March 2019

	TOTAL			
	MAR 2019	MAR 2018 (PY)	CHANGE	% CHANGE
Income				
4010 Property Taxes	10,308.20	8,885.16	1,423.04	16.02 %
4020 Interest Income	1,365.21	169.98	1,195.23	703.16 %
4020.1 Interest Income Cap Proj Fund	261.52	14.50	247.02	1,703.59 %
4030 Adult Program Revenues	2,179.00	4,139.00	-1,960.00	-47.35 %
4050 Facility Revenue	9,457.00	5,977.50	3,479.50	58.21 %
4200 Contracted Classes Revenues	6,012.50	5,580.00	432.50	7.75 %
4210 Events Revenues	4,420.25	2,660.25	1,760.00	66.16 %
4213 Operational Grants	5,970.00	2,510.00	3,460.00	137.85 %
4215 Capital Grants		15,000.00	-15,000.00	-100.00 %
4216 Scholarship Donations	25.00	33.00	-8.00	-24.24 %
4300 Youth Program Revenues	15,605.00	10,703.43	4,901.57	45.79 %
4610 Billable Expense Income	3,323.23		3,323.23	
4650 Discounts given	-291.40	-164.90	-126.50	-76.71 %
Total Income	\$58,635.51	\$55,507.92	\$3,127.59	5.63 %
Cost of Goods Sold				
5001 Adult Program Costs	80.42		80.42	
5004 Contracted Classes Costs	4,441.91	2,798.00	1,643.91	58.75 %
5005 Events Costs	3,752.84	658.26	3,094.58	470.12 %
5008 Youth Program Costs	1,370.48	2,828.55	-1,458.07	-51.55 %
5110 Scholarship Fund Expense	257.90	124.50	133.40	107.15 %
Total Cost of Goods Sold	\$9,903.55	\$6,409.31	\$3,494.24	54.52 %
GROSS PROFIT	\$48,731.96	\$49,098.61	\$ -366.65	-0.75 %
Expenses				
6000 Employee Costs	50,556.78	49,477.60	1,079.18	2.18 %
7010 Advertising & Marketing	7,845.61	3,142.83	4,702.78	149.64 %
7020 Bank Service Charges	696.41	702.62	-6.21	-0.88 %
7030 Dues & Subscriptions	583.41	70.00	513.41	733.44 %
7035 Equipment Rents & Leases	85.34		85.34	
7050 Insurance	678.26	2,494.17	-1,815.91	-72.81 %
7060 Licenses & Fees	963.44	813.00	150.44	18.50 %
7070 Maintenance	11,378.70	3,862.29	7,516.41	194.61 %
7084 Meals & Entertainment	402.15	134.84	267.31	198.24 %
7090 Office Supplies	2,027.51	381.61	1,645.90	431.30 %
7120 Professional Development		2,166.94	-2,166.94	-100.00 %
7150 Professional Fees	16,650.78	4,402.50	12,248.28	278.21 %
7180 Security	179.96	-151.46	331.42	218.82 %
7210 Telephone and Internet	823.84	926.30	-102.46	-11.06 %
7230 Uniforms & Apparel	15.44	130.93	-115.49	-88.21 %
7250 Utilities	6,211.97	5,555.83	656.14	11.81 %
7999 Uncategorized Expense	-24.99	144.77	-169.76	-117.26 %
Total Expenses	\$99,074.61	\$74,254.77	\$24,819.84	33.43 %

	TOTAL			
	MAR 2019	MAR 2018 (PY)	CHANGE	% CHANGE
NET OPERATING INCOME	\$ -50,342.65	\$ -25,156.16	\$ -25,186.49	-100.12 %
Other Income				
8040 TVRPD Development Fee Revenues	4,274.00	10,685.00	-6,411.00	-60.00 %
Total Other Income	\$4,274.00	\$10,685.00	\$ -6,411.00	-60.00 %
NET OTHER INCOME	\$4,274.00	\$10,685.00	\$ -6,411.00	-60.00 %
NET INCOME	\$ -46,068.65	\$ -14,471.16	\$ -31,597.49	-218.35 %



Tehachapi Valley Recreation and Park District

STATEMENT OF CASH FLOWS

March 2019

	TOTAL
OPERATING ACTIVITIES	
Net Income	-46,068.65
Adjustments to reconcile Net Income to Net Cash provided by operations:	
1200 Accounts Receivable	4,253.77
1070 Prepaid Expenses	2,217.76
1092 Credit Card Receivables	-2,587.30
2000 Accounts Payable-General Fund	42,988.00
2010 Cardmember Services Payable	1,565.36
2014 Home Depot Payable	-88.89
2200 Suspense	0.00
2207 Sales tax payable	36.84
2211 Payroll Liabilities:CalPERS Payable	0.01
2231 Payroll Liabilities:Health Plan Payable	-1,728.44
2241 Payroll Liabilities:AFLAC Payable	428.50
2250 Payroll Liabilities:Payroll Tax Liabilities	751.95
Total Adjustments to reconcile Net Income to Net Cash provided by operations:	47,837.56
Net cash provided by operating activities	\$1,768.91
INVESTING ACTIVITIES	
1163 Equipment	-88,324.83
1163.1 Equipment Not Placed In Service	54,387.87
Net cash provided by investing activities	\$ -33,936.96
FINANCING ACTIVITIES	
3022 Restricted Funds:Capital Projects	4,482.52
3028 Restricted Funds:Site Lease Funds	-39,018.00
3030 Unrestricted Funds	34,535.48
Net cash provided by financing activities	\$0.00
NET CASH INCREASE FOR PERIOD	\$ -32,168.05
Cash at beginning of period	608,236.34
CASH AT END OF PERIOD	\$576,068.29

Tehachapi Valley Recreation and Park District

BUDGET VS. ACTUALS: TVRPD BUDGET 2018/2019

July 2018 - March 2019

	TOTAL			
	ACTUAL	BUDGET	REMAINING	% REMAINING
Income				
4010 Property Taxes	506,302.74	669,319.47	163,016.73	24.36 %
4020 Interest Income	6,492.33	2,153.97	-4,338.36	-201.41 %
4020.1 Interest Income Cap Proj Fund	727.43		-727.43	
4030 Adult Program Revenues	22,653.16	27,900.09	5,246.93	18.81 %
4050 Facility Revenue	109,861.38	108,544.50	-1,316.88	-1.21 %
4200 Contracted Classes Revenues	35,304.50	29,588.31	-5,716.19	-19.32 %
4210 Events Revenues	130,159.34	85,952.97	-44,206.37	-51.43 %
4213 Operational Grants	32,274.00	79,724.97	47,450.97	59.52 %
4216 Scholarship Donations	98.00	1,125.00	1,027.00	91.29 %
4300 Youth Program Revenues	103,001.55	98,239.32	-4,762.23	-4.85 %
4610 Billable Expense Income	10,473.76	4,500.00	-5,973.76	-132.75 %
4650 Discounts given	-4,123.40	-3,224.97	898.43	-27.86 %
4690 Other Income	200.00		-200.00	
4704 Sales				
4703 Food Sales-Taxable	45.68	180.00	134.32	74.62 %
4705 Food Sales Non Taxable	137.45	551.25	413.80	75.07 %
4709 Soda Sales-Taxable	32.63	74.97	42.34	56.48 %
Total 4704 Sales	215.76	806.22	590.46	73.24 %
Total Income	\$953,640.55	\$1,104,629.85	\$150,989.30	13.67 %
Cost of Goods Sold				
5001 Adult Program Costs	3,900.20	6,678.00	2,777.80	41.60 %
5002 Fish Stocking		7,499.97	7,499.97	100.00 %
5004 Contracted Classes Costs	27,605.48	23,137.47	-4,468.01	-19.31 %
5005 Events Costs	120,345.98	115,241.40	-5,104.58	-4.43 %
5008 Youth Program Costs	20,365.67	26,145.00	5,779.33	22.10 %
5110 Scholarship Fund Expense				
5115 Chavez Scholarship Fund	1,880.00	825.03	-1,054.97	-127.87 %
5117 Walter Dye Scholarship Fund	1,411.40	825.03	-586.37	-71.07 %
Total 5110 Scholarship Fund Expense	3,291.40	1,650.06	-1,641.34	-99.47 %
5704 Purchases for Resale				
5701 Beer Purchases	2,300.00	337.50	-1,962.50	-581.48 %
5703 Food Purchases	115.74	299.97	184.23	61.42 %
5709 Soda Purchases	35.35	150.03	114.68	76.44 %
Total 5704 Purchases for Resale	2,451.09	787.50	-1,663.59	-211.25 %
Total Cost of Goods Sold	\$177,959.82	\$181,139.40	\$3,179.58	1.76 %
GROSS PROFIT	\$775,680.73	\$923,490.45	\$147,809.72	16.01 %
Expenses				
6000 Employee Costs				
6010 Wages & Salaries	393,538.27	416,075.31	22,537.04	5.42 %
6020 Employee Taxable Allowances	6,737.11	6,900.03	162.92	2.36 %
6050 Benefits	-363.22		363.22	

	TOTAL			
	ACTUAL	BUDGET	REMAINING	% REMAINING
6051 Employee MedDentalVisLife	30,334.80	33,750.00	3,415.20	10.12 %
6055 Employee Retirement CalPERS	26,766.32	31,500.00	4,733.68	15.03 %
6056 CalPERS Unfunded Liability Valuation	10,744.00	9,798.03	-945.97	-9.65 %
6058 Employer Taxes	37,307.19	37,500.03	192.84	0.51 %
6060 Reimbursed Employee Expenses		749.97	749.97	100.00 %
6070 Vacation, Sick, & Admin Leave		1,125.00	1,125.00	100.00 %
6090 Worker's Compensation Insurance	29,203.76	17,250.03	-11,953.73	-69.30 %
Total 6050 Benefits	133,992.85	131,673.06	-2,319.79	-1.76 %
Total 6000 Employee Costs	534,268.23	554,648.40	20,380.17	3.67 %
7010 Advertising & Marketing	34,561.10	23,249.97	-11,311.13	-48.65 %
7020 Bank Service Charges	9,874.33	7,575.03	-2,299.30	-30.35 %
7025 Cash Short/Over	10.00		-10.00	
7026 Charitable Contribution	18,200.00	1,649.97	-16,550.03	-1,003.05 %
7030 Dues & Subscriptions	6,425.52	5,249.97	-1,175.55	-22.39 %
7035 Equipment Rents & Leases	161.00		-161.00	
7036 Maintenance Equipment Rental	288.74	749.97	461.23	61.50 %
7037 Office Equipment Rental	743.25	2,625.03	1,881.78	71.69 %
Total 7035 Equipment Rents & Leases	1,192.99	3,375.00	2,182.01	64.65 %
7050 Insurance				
7051 Auto Insurance	3,646.50	3,750.03	103.53	2.76 %
7052 HUB Insurance	0.00	299.97	299.97	100.00 %
7053 Property Insurance	8,960.21	9,749.97	789.76	8.10 %
7055 Liability Insurance	6,325.00	6,000.03	-324.97	-5.42 %
Total 7050 Insurance	18,931.71	19,800.00	868.29	4.39 %
7056 Interest Expense	9,911.54	13,500.00	3,588.46	26.58 %
7060 Licenses & Fees	9,467.55	52,125.03	42,657.48	81.84 %
7070 Maintenance				
7071 Pool Chemicals	4,541.02	6,675.03	2,134.01	31.97 %
7072 Building & Park Maintenance	20,302.09	20,962.53	660.44	3.15 %
7073 Accessibility Upgrades		75.78	75.78	100.00 %
7074 Equipment Maintenance	5,422.68	5,324.94	-97.74	-1.84 %
7075 Fuel	9,002.44	7,125.03	-1,877.41	-26.35 %
7076 Janitorial Supplies	7,258.04	7,125.03	-133.01	-1.87 %
7077 Small Tools & Equipment	421.30	1,125.00	703.70	62.55 %
7078 Materials & Supplies	6,330.31	25,074.00	18,743.69	74.75 %
7079 Fleet Maintenance	5,842.75	3,750.03	-2,092.72	-55.81 %
Total 7070 Maintenance	59,120.63	77,237.37	18,116.74	23.46 %
7084 Meals & Entertainment	2,876.12	2,250.00	-626.12	-27.83 %
7090 Office Supplies	11,708.83	10,500.03	-1,208.80	-11.51 %
7120 Professional Development	510.00	5,625.00	5,115.00	90.93 %
7150 Professional Fees				
7151 Annual Audit	11,750.00	8,849.97	-2,900.03	-32.77 %
7152 Bookkeeping & Payroll	24,220.90	18,749.97	-5,470.93	-29.18 %
7153 Information Technology	3,670.50	6,374.97	2,704.47	42.42 %
7154 Project Consults	50,505.86		-50,505.86	
7155 Legal	8,870.43	6,750.00	-2,120.43	-31.41 %
Total 7150 Professional Fees	99,017.69	40,724.91	-58,292.78	-143.14 %

	TOTAL			
	ACTUAL	BUDGET	REMAINING	% REMAINING
7160 Property Tax Collection Fee		10,500.03	10,500.03	100.00 %
7180 Security	4,426.20	3,000.06	-1,426.14	-47.54 %
7210 Telephone and Internet	8,698.41	9,000.00	301.59	3.35 %
7230 Uniforms & Apparel	1,357.73	2,250.00	892.27	39.66 %
7250 Utilities				
7252 Electric Service	34,953.23	30,262.41	-4,690.82	-15.50 %
7254 Gas Service	9,925.83	12,862.44	2,936.61	22.83 %
7256 Sanitation Services	6,286.51	10,424.97	4,138.46	39.70 %
7258 Water Service	7,908.04	6,415.47	-1,492.57	-23.27 %
Total 7250 Utilities	59,073.61	59,965.29	891.68	1.49 %
7299 Interest Expense KCA	4,700.45		-4,700.45	
Total Expenses	\$894,332.64	\$902,226.06	\$7,893.42	0.87 %
NET OPERATING INCOME	\$ -118,651.91	\$21,264.39	\$139,916.30	657.98 %
Other Income				
8020 Insurance Settlement Proceeds	1,324.92		-1,324.92	
8040 TVRPD Development Fee	70,514.00		-70,514.00	
Revenues				
Total Other Income	\$71,838.92	\$0.00	\$ -71,838.92	0.00%
Other Expenses				
7290 Operational Reserve (Contingency)		74,999.97	74,999.97	100.00 %
8505 Quimby Expense		2,376.72	2,376.72	100.00 %
8507 Loan Principal Payments (2310)		37,276.47	37,276.47	100.00 %
Total Other Expenses	\$0.00	\$114,653.16	\$114,653.16	100.00 %
NET OTHER INCOME	\$71,838.92	\$ -114,653.16	\$ -186,492.08	162.66 %
NET INCOME	\$ -46,812.99	\$ -93,388.77	\$ -46,575.78	49.87 %

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("**Agreement**") is made and entered into as of _____, 2019 (the "**Effective Date**"), by and between TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT, a county water district ("**T-CCWD**"), TEHACHAPI VALLEY RECREATION AND PARK DISTRICT, a California recreation and parks district ("**TVRPD**") and THE KIWANIS CLUB OF TEHACHAPI, a California corporation ("**Kiwanis**"), each individually a "**Party**," and collectively the "**Parties**."

RECITALS

A. T-CCWD owns that certain reservoir located in Brite Valley in Kern County, State of California, generally known and referred to as "**Brite Lake**," and certain real property surrounding Brite Lake, generally known and referred to as Brite Valley Recreation Area, consisting of certain portions of Kern County Assessor's Parcel Nos. 376-014-14, 378-010-01, and 378-010-02.

B. T-CCWD and TVRPD are parties to that certain agreement dated June 19, 1974, concerning the establishment and operation of a public recreational facility at Brite Lake (the "**1974 Agreement**"), a copy of which is attached hereto as **Exhibit ____**; T-CCWD, TVRPD and the County of Kern are parties to that certain Agreement for Construction, Maintenance and Operation of the Brite Valley Recreation Area dated June 19, 1975, pertaining to the same recreational facility (the "**1975 Agreement**"), a copy of which is attached hereto as **Exhibit ____**; and the terms of the 1974 Agreement and the 1975 Agreement were extended by that certain First Amendment to Agreement dated July 13, 1999, a copy of which is attached hereto as **Exhibit ____**.

C. Pursuant to the 1974 Agreement and 1975 Agreement, as amended, TVRPD operates the recreational facilities within the Brite Valley Recreation Area.

D. Kiwanis wishes to hold the Tehachapi Paddle Race Festival ("**Festival**") on portions of the Brite Valley Recreation Area. T-CCWD has agreed to grant a revocable and non-exclusive license to TVRPD and Kiwanis to enter and utilize portions of the Brite Valley Recreation Area (collectively, the "**License Areas**") for purposes of planning for and holding the Festival, including, without limitation, for boat races, food, beverage, and other concessions, and related events, and for thereafter restoring the License Areas to their original condition as of the Effective Date, all as set forth in this Agreement.

NOW THEREFORE, in consideration of the promises and mutual covenants, agreements and conditions hereof, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Recitals. The Recitals set forth above are true and correct and are incorporated herein by this reference.

2. Term. The term of this Agreement and the "License" (as that term is defined in Section 3) granted pursuant to this Agreement shall be as follows:

a. From 7:00 a.m. to 7:00 p.m. on each day during the period commencing on June 19, 2020, and ending on June 25, 2020 (the "**Set-Up Period**");

b. From 7:00 a.m. to 11:00 p.m. on each day during the period commencing June 26, 2020, and ending on June 28, 2020, (the "**Festival Period**"), or such earlier ending time each day as approved by the Kern County Sheriff's Office;

c. From 7:00 a.m. to 7:00 p.m. on each day during the period commencing on June 29, 2020, and ending on July 10, 2020 (the "**Restoration Period**").

The date the term of this Agreement and the License expires at the conclusion of the Restoration Period, or the date this Agreement is earlier terminated pursuant to the terms hereof, is referred to hereafter as the "**Termination Date**".

3. License. T-CCWD hereby grants to: (i) TVRPD; (ii) Kiwanis; (iii) TVRPD's directors, officers, employees, agents, representatives, and contractors (collectively, the "**TVRPD Personnel**"); (iv) Kiwanis's directors, officers, employees, agents, representatives, and contractors (collectively, the "**Kiwanis Personnel**"); and (v) participants and spectators in the Festival and other "Festival Activities" (as that term is defined in subparagraph b below) (collectively, the "**Festival Participants**") a nonexclusive and revocable license (the "**License**") to access and utilize the License Areas, solely and exclusively for the following purposes, and for no other purposes without the express written consent of T-CCWD as exercised in its sole and absolute discretion:

a. During the Set-Up Period, TVRPD, Kiwanis, TVRPD Personnel, and Kiwanis Personnel shall be permitted to stage and set up for the Festival, including installing four buoyed race lanes, camera towers, spectator bleachers, vendor tents and booths, entertainment stages, and related structures (such as for media coverage) (the "**Licensee's Facilities**").

b. During the Festival Period, Kiwanis, TVRPD Personnel, and Kiwanis Personnel shall be permitted to hold, and the Festival Participants shall be permitted to attend and participate in, press, media, corporate, charity, and other events, including the Festival (collectively, the "**Festival Activities**").

c. During the Restoration Period, Kiwanis, TVRPD Personnel, and Kiwanis Personnel shall be permitted to perform the "Restoration Activities" (as that term is defined in Section 11.b).

The activities described in subparagraphs a, b and c in this Section 3 are hereinafter collectively referred to as the "**License Activities**." Any activities other than the License Activities (the "**Prohibited Activities**") are strictly prohibited within the License Areas. Kiwanis and TVRPD shall not perform, and shall take all actions necessary and shall be responsible to ensure that none of the Kiwanis Personnel, TVRPD

Personnel, or the Festival Participants perform any Prohibited Activities within the License Areas without the express written consent of T-CCWD as exercised in its sole and absolute discretion.

4. Access for Advance Scouting: Determination of License Areas.

a. Conceptual Event Map. The general locations proposed for the Festival, including a conceptual four-lane buoyed boat race course, spectator bleachers, camera towers, racers registration area, food vendors and pavilion, two stages, portable toilets, and locations for the Asian, American Mountain and International Racers Villages portions of the Festival (collectively, the “**Preliminary License Areas**”) are depicted in the conceptual event map attached hereto and incorporated herein as Exhibit (the “**Conceptual Event Map**”), and in any event, must be provided to T-CCWD and TVRPD within ten (10) days after the Effective Date. Within ten (10) days after receipt of the Conceptual Event Map, T-CCWD and TVRPD shall have the right, but not the obligation, to either accept the proposed Conceptual Event Map and the location of the Preliminary License Areas or deny such Conceptual Event Map by providing written notice of such denial to Kiwanis stating the reasons for such denial. Failure by T-CCWD and/or TVRPD to provide such written notice of denial or approval shall be deemed approval of such Conceptual Map and Preliminary License Areas.

b. Access for Advance Scouting. During the period between the Effective Date and the commencement of the Set-Up Period (the “**Early Access Period**”), Kiwanis may arrange with TVRPD for access to the Preliminary License Areas.

c. Determination of License Areas and Event Map. During the Early Access Period, Kiwanis shall, in consultation with T-CCWD and TVRPD, refine the Conceptual Event Map and Preliminary License Areas, and shall submit such proposed refinements to T-CCWD and TVRPD for review no later than twenty (20) Business Days prior to the Set-Up Period. T-CCWD and TVRPD shall review and provide comments to any such submittal within five (5) Business Days after T-CCWD’s and TVRPD’s receipt thereof. As used in this Agreement, the term “**Business Days**” shall mean any day, excluding Saturday, Sunday and any day which is a legal holiday under the laws of the state of California. The identification and designation of the License Areas shall be subject to review and approval of T-CCWD’s General Manager in his or her reasonable discretion. Upon the Parties’ agreement on any such submittal, the approved event map shall be initialed by all Parties and shall be hereafter in this Agreement referred to as the “**Event Map**.” The Event Map shall clearly designate the areas within the License Areas to be utilized for: (i) staff, vendor, media, and volunteer parking (such area, the “**Event Staff Parking Lot**”); (ii) parking for “Participant Cars” (as that term is defined in Section 7.c); (iii) media; (iv) the Festival Activities, including, specifically, the boat race course, parade areas, camera towers, food and beverage concessions, beer and wine garden, village areas, stage areas, sanitary facilities (portable toilets etc.), and trash facilities. Kiwanis shall provide to T-CCWD and TVRPD the completed Event Map no later than five (5) Business Days prior to the Set-Up Period

5. Use of License Areas. Notwithstanding anything to the contrary in this Agreement: (i) the specific activities that comprise the License Activities shall be permitted only within the portions of the License Areas designated for such activities on the Event Map; and (ii) use of any area of the Brite Valley Recreation Area that is outside of the boundaries of the License Areas, or use of portions of the License Areas contrary to the designations on the Event Map, is a violation of this Agreement, and could result in violations of regulatory requirements and shall not be done under any circumstances without the express written consent of T-CCWD and/or TVRPD as exercised in their sole and absolute discretion.

6. Conditions to Commencement of License Activities. Kiwanis and TVRPD may not commence any of the License Activities until each of the following has occurred: (a) Kiwanis has reimbursed T-CCWD for all out-of-pocket costs of drafting and entering into this Agreement incurred by T-CCWD, including without limitation all reasonable attorneys fees; (b) Kiwanis has obtained all applicable permits and approvals required by the County of Kern for all of the License Activities (collectively, the “**County Permits**”); (c) Kiwanis has paid to TVRPD the refundable Remediation Deposit set forth in Section 8; (d) Kiwanis has complied with all of the insurance obligations set forth in Section 9; and (e) Kiwanis has satisfied all other conditions to commencement of the License Activities described in the County Permits. Kiwanis shall, no later than ten (10) Business Days prior to its intended submittal of any application for County Permits to Kern County, provide a draft of the application(s) and/or submittal(s) to T-CCWD for its review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. No application or submittal to use the License Area for the Festival shall be made to Kern County until such application or submittal has been reviewed and approved by T-CCWD. Prior to commencing any activities upon the License Areas and at T-CCWD and/or TRPD’s request, Kiwanis shall submit satisfactory evidence that it has obtained all applicable County Permits and complied with the requirements therein.

7. Performance and Conduct of License Activities.

a. Compliance with Rules, Permits, Laws, and Regulations. At all times during the term of this Agreement, Kiwanis and TVRPD shall, and shall cause all of the Kiwanis Personnel, TVRPD Personnel and Festival Participants to, strictly and promptly observe and comply with the rules and conditions set forth in the Tehachapi Paddle Race Festival Rules of Operation attached as **Exhibit ____** hereto, the County Permits, any rules, policies, guidelines and conditions provided in writing by T-CCWD or TVRPD to Kiwanis, and all applicable federal, state, and local laws and regulations.

b. Approval, Construction and Operation of Licensee's Facilities.

(i) Approval of Plans and Specifications. Kiwanis, at its expense, shall prepare complete plans and specifications for the construction of the Licensee's Facilities and submit such plans and specifications to T-CCWD and TVRPD for their information, review and approval prior to the commencement of any construction of the Licensee's Facilities. T-CCWD's review and approval: (1) shall be limited to confirming that the scope and proposed manner of construction of the Licensee's Facilities conforms to any prior representations of the Licensee, including, without limitation, the Event Map and the County Permits requirements; (2) shall not be relied upon by any person as a representation by T-CCWD or TVRPD as to the adequacy of the plans and specifications for any purpose; and (3) shall not be unreasonably withheld or delayed.

(ii) Construction. The Licensee's Facilities shall be constructed in substantial compliance with the plans and specifications approved by TVRPD and T-CCWD.

(iii) Operation. Kiwanis, at its expense, shall operate, maintain and repair the Licensee's Facilities so that the Licensee's Facilities are maintained in a safe condition and in accordance with any other standards contained in this License to avoid any adverse impact to T-CCWD's property or the Brite Valley Recreation Area.

c. Staffing Requirements. During the Festival Period, Kiwanis shall provide (or cause to be provided), at its sole cost and expense, adequate staff to support the License Activities occurring during the Festival Period, including, without limitation: (i) staff to manage all parking areas and trash pick-up and disposal, and to check-in Festival Participants and food, beverage, and other concessions vendors; (ii) security personnel; and (iii) medical personnel, lifeguards, and first aid support, which personnel and support shall be provided throughout the Festival. Kiwanis represents and warrants to T-CCWD and TVRPD that Kiwanis is an experienced operator of festivals and events and activities similar in nature to the Festival Activities to be conducted by Kiwanis pursuant to this Agreement, and that Kiwanis is knowledgeable with respect to the type and quantity of staffing personnel to safely and efficiently conduct the Race Activities.

d. Parking. In addition to any rent, fees, and other payments to be made by Kiwanis pursuant to this Agreement, Kiwanis shall pay TVRPD One Dollars (\$1.00) for every vehicle transporting a Festival Participant or a participant in any of the other Festival Activities that is parked within the License Areas (each such vehicle, a "**Participant Car**"). Participant Cars shall not include cars that belong to Kiwanis staff, vendors, sponsors, volunteers, or any other car that is authorized by Kiwanis to park for free in the Event Staff Parking Lot. TVRPD may, but is not obligated to, provide one of its staff members to verify the number of Participant Cars that are parked in the License Areas.

e. Water. Upon reasonable advance request by Kiwanis, and at locations to be designated by T-CCWD, T-CCWD shall make available to Kiwanis potable water for domestic purposes. Kiwanis acknowledges that potable water availability is limited to a maximum of forty (40) gallons per minute. Kiwanis and TVRPD shall monitor use to maintain a safe reserve supply in the storage tanks. Non-potable water, pumped from the reservoir using facilities to be provided by Kiwanis, shall be utilized for dust control and other non-domestic purposes. Kiwanis shall be solely responsible for providing one or more water trucks (with driver), and distributing any of the foregoing water to specific locations within the License Areas.

f. Alcohol Sales. Kiwanis shall not be permitted to sell or serve alcoholic beverages within the License Areas unless Kiwanis has obtained all necessary approvals and permits, including, without limitation, all approvals required by the County of Kern and by the California Department of Alcoholic Beverage Control (collectively, the **"Alcohol Approvals"**). T-CCWD and TVRPD agree to reasonably cooperate with Kiwanis in its effort to obtain the Alcohol Approvals, but in no event shall T-CCWD or TVRPD be required to incur any cost or expense, or to provide documents, data, assurances, indemnities or any similar information or obligations to any regulatory entity. Notwithstanding any other permit or approval to the contrary, the sale and service of alcoholic beverages within the License Areas shall be restricted as follows:

(i) No alcoholic beverage shall be served to any persons under 21 years of age. Kiwanis shall require that persons wishing to consume alcohol present a valid identification evidencing that they are at least 21 years of age. Kiwanis shall provide such persons with a non-transferrable wristband that is required to be worn by such persons while consuming alcohol.

(ii) No glass containers (including bottles) may be sold or otherwise provided. Serving containers for alcoholic beverages shall be easily differentiated from serving containers for nonalcoholic beverages. Any alcoholic beverage served in aluminum cans shall be opened by the person or person selling such alcoholic beverage prior to providing same to the buyer.

(iii) All cups and other containers used for serving alcoholic beverages shall be clear in color (plastic only) and limited to an 8 oz. serving size for hard liquor and 12-oz. for serving beer and easily identifiable and distinguishable from cups and containers used for serving non-alcoholic beverages.

(iv) Alcohol consumption is permitted only in the area identified on the Event Map as the "Beer and Wine Garden" and is prohibited in all other areas.

(v) No outside alcohol allowed. All alcohol must be brought into the License Areas by Kiwanis Personnel for sale and service as permitted

under this Agreement. No other alcohol or alcoholic beverages may be brought into the License Areas. All alcoholic beverages must be distributed over a bar unit into individual servings. A maximum of two (2) alcoholic beverages per person may be dispensed per visit to a bar.

g. Signage and Display.

(i) Kiwanis may, at its discretion, install signage within the License Areas related to the Festival Activities, media coverage and sponsors. At or prior to the conclusion of the Restoration Period, Kiwanis shall remove all such signage installed pursuant to this Agreement.

(ii) With the prior written approval of T-CCWD as to the location and content, which approval shall not be unreasonably withheld, conditioned or delayed, Kiwanis may place directional and/or way-finding signs in locations within the Brite Valley Recreation Area that are outside of the License Areas for the exclusive purpose of directing Kiwanis Participants to the License Areas; no other signage outside of the License Areas shall be permitted.

(iii) Prior to placing any signage pursuant to this subparagraph g, Kiwanis shall submit a proposed signage plan to T-CCWD and TVRPD for review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. Kiwanis's proposed signage shall ensure safe and efficient vehicular entry into the License Areas, and in particular the parking areas, that will not impede the flow of traffic or create traffic issues on any public or private road.

h. Non-exclusivity; Use by T-CCWD, T-CCWD Personnel, and the Public. During the term of the License, T-CCWD, T-CCWD Personnel, TVRPD, TVRPD Personnel, and the public shall have the right to access and use the License Areas; provided, however, that: (i) T-CCWD and TVRPD shall and shall cause the T-CCWD Personnel to use reasonable efforts to avoid interfering with the License Activities; and (ii) during the Festival Period, T-CCWD and T-CCWD Personnel's access and use rights shall be limited to routine and regular T-CCWD operations, and T-CCWD shall and shall cause the T-CCWD Personnel to use commercially reasonable efforts to avoid interfering with the Festival Activities and the Festival.

i. License Subject to Existing Rights of Others. Kiwanis's and TVRPD's rights under this Agreement are subject to all valid and existing licenses, leases, grants, encumbrances, exceptions and reservations, including, without limitation, the 1974 Agreement and the 1975 Agreement.

j. Intellectual Property Rights. Nothing in this Agreement conveys any rights to the any other Party's name, nicknames, logos, colors, uniform designs, artwork, trademarks, trade names, service marks, trade dress, intellectual property or other identifying features owned, controlled, cleared for use by or on behalf of, and/or applied

to be registered or registered by another Party (collectively, the “**Marks**”). No Party will use any other Party’s Marks in any manner whatsoever without the prior written approval of the owner of the Marks. Each Party shall, at all times, own and retain full rights to its respective Marks, the goodwill and all registrations that may be related thereto. Notwithstanding the foregoing, however, Kiwanis may use T-CCWD’s and TVRPD’s Marks in any advertising, promotional or registration information regarding the Festival Activities without charge, provided that Kiwanis receives T-CCWD’s and TVRPD’s prior written approval prior to each such use, which approval shall be at T-CCWD’s and TVRPD’s sole and absolute discretion.

k. Broadcast and Publishing Rights. Kiwanis and the Kiwanis Personnel shall have the right at its sole cost: (a) to record the Festival and other Festival Activities using pictures, photos, video recordings, audiotapes, digital images, and the like (collectively, “**Media**”), including in connection with the production of a national (or other) television production or a movie; and (b) to use the name, likeness, appearance and image of the License Areas (which may include T-CCWD’s and TVRPD’s Marks and other intellectual property, provided that T-CCWD and TVRPD have consented and approved such use in advance, as provided in subparagraph j above) as such may be embodied in any Media taken by, or on behalf of, or with the consent of, Kiwanis.

l. No Drone Usage. Kiwanis shall prohibit all Kiwanis Personnel and Festival Participants from using, flying or otherwise deploying any small unmanned aircraft system or drone.

m. No Alterations to Waters of the United States. Pursuant to 40 Code of Federal Regulations section 230.3(s), no alterations may be made to any “waters of the United States” without obtaining certain federal permits and approvals. Kiwanis shall design, plan, and operate the Festival in a manner that does not alter any water course, stream, or other natural water conveyance within the License Areas.

n. Disposal of Trash, Personal Sanitation Systems. Throughout the entirety of each of the Set-up Period, Festival Period and Restoration Period, Kiwanis shall contract with: (i) a disposal or waste company to provide adequate trash receptacles and dumpsters (with periodic service to ensure that such receptacles and dumpsters emptied at intervals necessary so as not to become a nuisance) for the License Activities; and (ii) a “porta-potty” or similar portable toilet personal sanitation service to ensure adequate facilities to service Kiwanis’, Kiwanis Personnels’, and Kiwanis Participants’ personal hygiene and sanitation needs, which facilities shall be serviced on a daily basis.

o. Contractor Licenses. All work conducted in the License Areas by or at the direction of Kiwanis shall be conducted only by persons and entities with adequate contractor or other professional licenses as may be required by law.

p. No Liens. Kiwanis shall not, and shall ensure that the Kiwanis Personnel shall not, place, allow to be placed on, or incur any liens against the License Areas or any portion thereof in connection with the License Activities or in any way attributable to the acts of Kiwanis and/or the Kiwanis Personnel on the License Areas.

Kiwanis shall indemnify, defend, and hold T-CCWD, TVRPD, the T-CCWD Personnel and the TVRPD Personnel free and harmless from and against any and all claims, actions, causes of action, demands, damages, liabilities, costs, fees and expenses, including reasonable legal fees and expenses (collectively, "**Claims**") arising with respect to payment of liens assessed or levied against the License Areas in connection with the License Activities, or any other activities under control of Kiwanis or the Kiwanis Personnel which, pursuant to the laws of California, may become a lien on the License Areas. Should any lien be filed against the License Areas in connection with the License Activities, Kiwanis shall promptly bond around the lien as part of disputing the lien with the party asserting the lien. The provisions of this Section shall survive termination of the License and this Agreement. T-CCWD may post notices of non-responsibility on the License Area prior to Kiwanis's commencement of any of the License Activities under this Agreement.

8. Rental Fee; Deposit; Remediation Deposit. The rental fee for Kiwanis's use of the License Areas pursuant to this Agreement shall be One-Thousand Dollars (\$1,000.00) per day (the "**Base Rental Fee**"), payable to TVRPD.

In addition to the Base Rental Fee, Kiwanis will compensate TVRPD Two Dollars (\$2.00) for each Festival Participant over five thousand (5,000). Payment of said amount shall be due and payable within thirty (30) days after the conclusion of the Festival.

Five-Hundred Dollars (\$_____.00) of the Base Rental Fee (the "**Deposit**") shall be payable by Kiwanis within ten (10) Business Days after the Effective Date, and upon payment thereof shall be nonrefundable. The remaining balance of Two-Thousand Five-Hundred Dollars (\$2,500.00) of the Base Rental Fee shall be payable no later than thirty (30) days prior to the commencement of the Set-Up Period.

Additionally, Kiwanis will pay TVRPD Five-Hundred Dollars (\$50.00) as a refundable remediation deposit (the "**Remediation Deposit**") no later than thirty (30) days prior to the commencement of the Set-Up Period. The Remediation Deposit shall be used only to pay documented costs associated with repairing damage as contemplated by Section 11.a, excluding reasonable wear and tear. If the cost of the restoration activities completed by TVRPD amount to less than Five-Hundred Dollars (\$500.00), TVRPD shall refund Kiwanis the difference between the Five-Hundred Dollars (\$500) Remediation Deposit and the actual cost incurred by TVRPD to complete the repairs. Additionally, in such circumstances where the Remediation Deposit is used, TVRPD shall provide Kiwanis with a line item breakdown of such remediation costs. In the event Kiwanis fails to complete its obligations to restore the License Areas, then TVRPD shall have those rights specified in Section 11.b.

Kiwanis agrees to donate fifty percent (50%) of the festival's proceeds to the Tehachapi Parks Foundation.

Any additional fees mutually agreed between the Parties shall be payable within thirty (30) days after completion of the Festival.

All payments shall be made to:

Tehachapi Valley Recreation and Park District

Attn: _____

Tehachapi, CA _____

9. Insurance. Prior to any entry onto any portion of the Preliminary License Areas or License Areas by Kiwanis or any Kiwanis Personnel, Kiwanis shall, at its own expense, cause to be procured and maintained the following policies of insurance:

a. Commercial general liability insurance on a current standard occurrence policy form, with coverage for bodily injury (including death), property damage, personal and advertising injury, contractual liability, liquor liability, and host liquor liability, in an amount not less than Two Million Dollars (\$2,000,000) per occurrence, of which insurance in excess of One Million Dollars (\$1,000,000) may be covered by a so-called "umbrella" or "excess coverage policy";

b. Workers' compensation insurance covering all Kiwanis employees to the statutory limit and employers' liability insurance in an amount not less than One Million Dollars (\$1,000,000); and

c. Business automobile liability insurance covering all owned and non-owned vehicles to be used by it (or which it allows another person to use), affording protection for bodily injury (including death) and property damage in the form of combined single limit per accident for bodily injury and property damage with limits of not less than One Million Dollars (\$1,000,000) per accident, which insurance in excess of Five Hundred Thousand Dollars (\$500,000) may be covered by so-called "umbrella" or "excess coverage" policy.

In addition, Kiwanis shall require all contractors to have workers' compensation insurance covering all of the contractor's employees to the statutory limit and employers' liability insurance in an amount not less than One Million Dollars (\$1,000,000), and all concessionaires and contractors to have a comprehensive general public liability insurance policy in an amount not less than One Million Dollars (\$1,000,000) per occurrence covering their activities at the License Areas and the Festival during the term of this Agreement or otherwise related to the Festival.

All such insurance required pursuant to this Section shall be placed with good and solvent insurance companies licensed or having admitted status in the State of California and registered with the California State Department of Insurance, with a BEST rating of "A-" or better and a financial size category of "X" or higher. The liability insurance policies required above shall (i) be endorsed to provide that it is primary and not excess to or contributing with any insurance maintained by any of T-CCWD, TVRPD, or any of the T-CCWD Personnel or TVRPD Personnel, (ii) be endorsed to name T-CCWD, TVRPD, and the T-CCWD Personnel and TVRPD Personnel, as additional insureds, (iii) not contain any special limitations on the scope of protection afforded to any of Kiwanis, the Kiwanis

Personnel, and/or the Kiwanis Participants (iv) be “date of occurrence” and not “claims made” insurance, (v) apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability, and (vi) provide that the policy shall not be cancelled by the insurer or Kiwanis unless there is a minimum of thirty (30) days prior written notice to Kiwanis and to T-CCWD and TVRPD. The deductible or self-insured retention must be declared to the General Manager of T-CCWD, who in his/her sole discretion may require the insurer to reduce such deductible or self-insured retention.

Kiwanis shall furnish or cause to be furnished to the General Manager of T-CCWD and the General Manager of TVRPD, prior to any entry on any portion of the Preliminary License Areas or License Areas pursuant to this Agreement, certificates of insurance which bear original signatures of authorized agents and which reflect insurers’ names and addresses, policy numbers, coverage, limits, deductibles and self-insured retentions. Additionally, Kiwanis shall furnish certified copies of all policy endorsements required herein to T-CCWD and TVRPD. All certificates and endorsements must be received and approved by T-CCWD before any such entry. T-CCWD reserves the right to require at any time complete, certified copies of any or all required insurance policies and endorsements. Prior to any such entry Kiwanis shall also provide evidence reasonably satisfactory to the General Manager of T-CCWD and the General Manager of TVRPD that Kiwanis or any contractor with whom Kiwanis has contracted for the performance of any of the License Activities carries workers’ compensation insurance as required by law.

The provisions of this Section shall survive termination of the License and this Agreement.

10. “As-Is, Where-Is” License. In undertaking the License Activities, Kiwanis, the Kiwanis Personnel, TVRPD and the TVRPD Personnel, and the Festival Participants may encounter various natural hazards, including, without limitation: (i) uneven and unstable terrain, differing ground cover and grades, rocks, and boulders; and (ii) wildlife, noises, odors, reptiles and insect life, including without limitation, rattlesnakes, mountain lions, bears, rodents and coyotes. Kiwanis represents and warrants that Kiwanis is experienced in organizing and holding events in rural areas with characteristics similar to those of the License Areas, and that prior to the commencement of any of the License Activities, Kiwanis has been given an adequate opportunity to review and inspect, and has approved all aspects of the License Areas for purposes of Kiwanis’s performance of the License Activities. T-CCWD and TVRPD make no representations or warranties as to the condition or suitability of the License Areas for the License Activities, including, without limitation, that the License Areas are suitable for Kiwanis’ purposes. Except as expressly provided in this Agreement, Kiwanis is responsible for providing all materials, supplies, equipment, and personnel necessary for Kiwanis to conduct and perform the License Activities. Kiwanis’s access and use of the License Areas for the License Activities is “AS IS, WHERE-IS,” WITH ALL FAULTS, in its present condition and subject to and without liability to T-CCWD or TVRPD, without any representation, promise, agreement or warrant on the part of T-CCWD or TVRPD regarding such condition needed by Kiwanis for the License Activities. Kiwanis represents and warrants that it has inspected the License Areas and its determination to engage in this undertaking is based

solely on its own investigation and is not based on reliance of any statements, oral or written, suggestions or information provided by any of T-CCWD, TVRPD and/or the T-CCWD Personnel and TVRPD Personnel. T-CCWD and TVRPD shall not be liable for any latent or patent defects in the License Areas, whether disclosed or not.

11. Condition of License Areas as of Termination Date; Performance Bonds.

a. Condition of License Areas as of Termination Date. On or before the Termination Date, Kiwanis shall: (a) remove from the License Areas all of the material, equipment and debris brought or placed within the License Areas as a result of this Agreement; (b) restore the License Areas to the condition in which they existed as of the Effective Date; and (c) deliver the License Areas to T-CCWD and TVRPD in a lien free condition. The activities in the foregoing clauses (a), (b), and (c) of this Section 11.a. shall be collectively referred to hereinafter as the “**Restoration Activities**.” Within thirty (30) days after the Termination Date (the “**Post-License Inspection Period**”), T-CCWD and TVRPD shall have the right to perform or cause to be performed an inspection of the License Areas to determine if Kiwanis has completed the Restoration Activities.

b. Restoration Activities Performance Bond(s). If during the Post-License Inspection Period T-CCWD or TVRPD determines that Kiwanis shall have failed in any manner to complete the Restoration Activities to the reasonable satisfaction of T-CCWD and/or TVRPD, and the Remediation Deposit is insufficient to complete such repairs, TVRPD shall complete the Restoration Activities remaining after expenditure of the Remediation Deposit (including without limitation, to pay in full all contractors and subcontractors performing the Restoration Activities) and may seek reimbursement from Kiwanis for work performed or amounts paid by TVRPD in satisfaction of the foregoing. T-CCWD shall not be responsible for performing or paying for any Restoration Activities.

c. Survival. The provisions of this Section shall survive termination of this Agreement.

12. Kiwanis’s Release. Kiwanis, on behalf of itself and the Kiwanis Personnel, hereby waives the right to recover from and fully and irrevocably releases T-CCWD, TVRPD, the T-CCWD Personnel and the TVRPD Personnel from and against any and all Claims that any of Kiwanis and/or any of the Kiwanis Personnel may now have or hereafter acquire arising from or related to this Agreement, the use of the License Areas, the condition of the License Areas, and/or the conduct of the License Activities by Kiwanis, any of the Kiwanis Personnel, and/or any of the Kiwanis Participants. This release includes Claims of which Kiwanis and the Kiwanis Personnel are presently unaware or which Kiwanis and the Kiwanis Personnel do not presently suspect to exist which, if known by Kiwanis and/or the Kiwanis Personnel, would materially affect Kiwanis and the Kiwanis Personnel’s decision to release T-CCWD, TVRPD, the T-CCWD Personnel and the TVRPD Personnel. Kiwanis, on behalf of itself and the Kiwanis Personnel specifically waives the protection of California Civil Code Section 1542, which provides as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**

TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Kiwanis's Initials

In this connection and to the extent permitted by law, Kiwanis, on behalf of itself and the Kiwanis Personnel, acknowledges that factual matters now unknown to it may have given or may hereafter give rise to Claims or controversies which are presently unknown, unanticipated and unsuspected, and Kiwanis, on behalf of itself and the Kiwanis Personnel, further agrees that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Kiwanis, on behalf of itself and the Kiwanis Personnel, nevertheless hereby intends to release, discharge and acquit T-CCWD, TVRPD, the T-CCWD Personnel and the TVRPD Personnel from any such unknown Claims and controversies to the extent set forth above. To the extent permitted by law, the foregoing provisions of this Section shall survive the termination of this Agreement.

13. Indemnity. Kiwanis shall protect, indemnify, defend and hold harmless T-CCWD, TVRPD, the T-CCWD Personnel and the TVRPD Personnel from and against any and all Claims, including reasonable attorneys fees, arising from or related to Kiwanis's activities during the term of this Agreement including, but not limited to: (a) the acts or omissions to act of Kiwanis, any of the Kiwanis Personnel or Kiwanis contractors and subcontractors, and/or any of the Kiwanis Participants; (b) entry onto the Preliminary License Areas and/or License Areas by Kiwanis, any of the Kiwanis Personnel, and/or any of the Kiwanis Participants in connection with this Agreement; and (c) bodily injury to or death of any person or damage to or loss of use of property resulting from such acts or omissions of Kiwanis, any of the Kiwanis Personnel, and/or any of the Kiwanis Participants; provided that Kiwanis shall not be responsible for and shall have no obligation to defend or indemnify T-CCWD or any of the T-CCWD Personnel to the extent a Claim relates to or arises from the gross negligence or willful misconduct of any of T-CCWD or the T-CCWD Personnel, and Kiwanis shall not be responsible for and shall have no obligation to defend or indemnify TVRPD or any of the TVRPD Personnel to the extent a Claim relates to or arises from the gross negligence or willful misconduct of any of TVRPD or the TVRPD Personnel. Furthermore, Kiwanis shall defend and indemnify T-CCWD, TVRPD, the T-CCWD Personnel and the TVRPD Personnel from any claim, action, liability or proceeding to attack, set aside, void or annul this Agreement or any of the proceedings, acts or determinations taken, done or made as a result of T-CCWD's or TVRPD's entering into this Agreement. Kiwanis's obligation to defend and indemnify under this Agreement shall apply to any lawsuit or challenge against T-CCWD, TVRPD, T-CCWD Personnel or TVRPD Personnel alleging failure to comply with the California Environmental Quality Act or with the requirements of any other federal, state, or local laws. Kiwanis's obligations under this Agreement to defend and indemnify T-CCWD, TVRPD, T-CCWD Personnel and TVRPD Personnel shall include, but not be limited to, payment of all court costs and attorneys' fees, all litigation-related costs, all costs of any judgments or awards against T-CCWD, TVRPD, T-CCWD Personnel or TVRPD

Personnel, and/or all settlement costs, which arise out of T-CCWD's granting of the License. Notwithstanding the foregoing, T-CCWD and TVRPD retain the right to refuse Kiwanis's proffered defense of any action or proceeding brought against T-CCWD or TVRPD and to select and direct independent legal counsel, and Kiwanis shall nevertheless pay all of T-CCWD's and TVRPD's reasonable attorneys' fees and costs of litigation incurred in connection therewith.

14. Bailee Disclaimer and Waiver of Claims. T-CCWD has granted its permission for use of the License Areas only for the purposes and in accordance with the provisions of this Agreement. By entering into this Agreement, T-CCWD is not agreeing in any manner to accept obligations or responsibility for the safekeeping of any personal or other property of any of Kiwanis, the Kiwanis Personnel, and/or the Festival Participants. This Agreement is not a contract for bailment or deposit of goods for safekeeping and T-CCWD and TVRPD in no manner whatsoever purport to be bailees. As a material part of the consideration to be rendered to T-CCWD and TVRPD for this Agreement, Kiwanis hereby waives any and all Claims against all of T-CCWD, TRVPD, the T-CCWD Personnel and TVRPD Personnel which it may now or hereafter have for damages to, loss of, or theft of any of Kiwanis's, the Kiwanis Personnel's, and/or the Festival Participants' personal property anywhere in, about, or on the License Areas, from any cause whatsoever, unless such damage, loss, or theft results from the sole gross negligence or willful misconduct of any of T-CCWD, TVRPD, the T-CCWD Personnel or the TVRPD Personnel.

15. Termination by Kiwanis, T-CCWD, or TVRPD.

a. Notwithstanding anything in this Agreement to the contrary, at any time prior to commencement of the Set-Up Period, Kiwanis may terminate this Agreement and cancel the Festival if: (i) after its commercially reasonable best efforts, it is unable to obtain any of the County Permits; or (ii) Kiwanis determines in good faith that the License Areas are unfit for staging, holding or otherwise operating the Festival to an extent such that it presents a risk of injury or other damage to any of Kiwanis, the Kiwanis Personnel, or the Kiwanis Participants, or to Kiwanis's reputation beyond that which is reasonable and customary to Kiwanis's business. In the case of any termination by Kiwanis pursuant to this Section, TVRPD shall refund all sums previously paid to TVRPD hereunder, with the exception of the Deposit, which shall be nonrefundable and deemed paid upon receipt to TVRPD. In the event of termination under this Section and to the extent Kiwanis has accessed any portion of Brite Lake and/or began any construction activities that caused changes to Brite Lake from the condition existing as of the Effective Date, then Kiwanis shall be responsible for restoring said portion of Brite Lake accessed to the condition existing as the Effective Date.

b. T-CCWD or TVRPD shall have the right to earlier terminate this License, in whole or in part, under the following circumstances:

(i) If, in the judgment of the T-CCWD General Manager or the TVRPD Manager, continuation of this License is or becomes detrimental to the use of the License Area, or any portion thereof, for T-CCWD's or

TVRPD's purposes, T-CCWD or TVRPD, after written notice to Kiwanis, may terminate this License at any time, such termination to be effective upon actual or constructive receipt of such written notice, whichever first occurs.

(ii) In the event Kiwanis shall fail to keep, perform and observe any of the terms, covenants, conditions, or provisions of this Agreement, including without limitation, the failure to conduct its activities in a safe and orderly manner or the failure to expel or otherwise restrict from the License Areas any person acting in such a way as to compromise their safety or the safety of others.

(iii) If T-CCWD, in its sole discretion, desires to terminate this Agreement, with or without cause, it may do so upon 60 days written notice to Kiwanis, such termination to be effective 60 days following actual or constructive receipt of such written notice, whichever first occurs.

All written notices provided for in this section shall be deemed received by Kiwanis three days following T-CCWD's or TVRPD's mailing thereof. T-CCWD and TVRPD shall not be liable to Kiwanis, any vendor or concessionaire, or any other person claiming through Kiwanis for any loss or inconvenience occasioned upon the event of any termination of this Agreement.

16. Defaults. Failure by any Party to perform any action or covenant required by this Agreement within the time periods provided herein constitutes a "default" under this Agreement. A Party claiming a default shall give written notice of the default to the other Parties specifying the default complained of. Except as otherwise expressly provided in this Agreement, and except as may be required to protect against irreparable injury, the claimant shall not institute any proceeding against any other Party, if such Party: (a) cures, corrects, or remedies such default within five (5) Business Days after receipt of a notice from the other Party specifying such failure or delay; or (b) for defaults that cannot reasonably be cured, corrected, or remedied within such time period, if such Party commences to cure, correct, or remedy such failure or delay immediately after receipt of a notice from the other Party specifying such failure or delay, and diligently prosecutes such cure, correction or remedy to completion.

17. Institution of Legal Actions. In addition to any other rights or remedies and subject to the restrictions set forth in this Agreement, any Party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Kern, State of California.

18. Attorneys' Fees and Costs. If any Party to this Agreement commences an action against another Party to this Agreement arising out of or in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, expert witness fees, costs of investigation, and costs of suit from the non-prevailing Party.

19. Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the internal laws of the State of California, without regard to conflict of interest laws. This Agreement is the product of negotiation. Accordingly, any rule of interpretation that an ambiguity is to be resolved against the grantor or the drafting Party shall not be employed in the interpretation of this Agreement, any exhibit hereto, or any amendment hereof, and neither Civil Code section 1069, Civil Code section 1654, nor any similar law shall be applied to resolve any ambiguity in this License.

20. Force Majeure. No Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached the Agreement for failure or delay in fulfilling or performing any term of the Agreement if due to "**Force Majeure**," which shall mean any one of the following: acts of God, fire, flood, riot, hostilities, civil disorder, act of terrorism or a credible threat thereof, declaration of war, martial law, strike, lockout or other labor dispute, change in law, ordinance, rule or regulation, or inclement weather, which either substantially impairs the Festival or Kiwanis's set-up or renders the Festival unsafe, or other occurrence or condition of a similar nature beyond the reasonable control of the Party whose performance is affected. Any Party may terminate this Agreement (and in Kiwanis's case, may terminate the Festival in whole or in part) due to a Force Majeure. In the event of such a termination (or cancellation of the Festival), T-CCWD shall (a) refund all sums previously paid to T-CCWD hereunder, excluding the Deposit; and (b) endeavor in good faith to provide Kiwanis an alternate Festival date. The immediately preceding sentence notwithstanding, T-CCWD shall endeavor in good faith to provide an alternate Festival date, and, if the Parties mutually agree upon such alternate Festival date; (a) this Agreement shall not be terminated; (b) any previously paid sums to T-CCWD shall be credited to such alternate Festival date; (c) the Parties shall cooperate to amend the term of the License to reflect such new Festival date; and (d) all terms and conditions relating to the Festival shall in all respects apply to the rescheduled Festival.

21. Notices. All notices required by this Agreement shall be provided in writing and shall be deemed received when (a) personally served; (b) two (2) days after being sent by registered or certified mail, return receipt requested, postage or charges prepaid; (c) delivered by recognized overnight carrier that provides a receipt with the date and time of delivery; or (d) one (1) day after receipt by facsimile machine or electronic mail, with transmission and receipt acknowledged in writing, and addressed to the Party for whom intended at such Party's address herein specified, or at such other address as such Party may have substituted therefore by proper notice to the other.

If to Kiwanis:

With a copy to:

If to T-CCWD:

Tehachapi-Cummings County Water District
Attn: Tom Neisler
General Manager
P.O. Box 326
Tehachapi, CA 93581
Email: tneisler@tccwd.com

With a copy to:

Kuhs & Parker
Attn: Bernard C. Barmann, Jr.
P.O. Box 2205
Bakersfield, CA 93303
Email: bbarmann@kuhsparkerlaw.com

If to TVRPD:

With a copy to:

22. No Assignment. This Agreement shall not be assigned by Kiwanis except with the prior written consent of T-CCWD in its sole discretion.

23. No Waiver. No waiver of any rights under this Agreement shall be effective unless in writing signed by all Parties. The waiver by any Party of a breach or a default of any provision of this Agreement by the another Party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of any Party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such Party.

24. Exhibits Incorporated. Each exhibit attached and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

25. Severability. If any provision of this Agreement or application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement (including the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable) shall be deemed severable and shall not be affected thereby, provided such remaining provisions can be construed in substance to constitute the agreement which the Parties intended to enter into in the first instance and will not change any material term of this Agreement.

26. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter and no amendment, change, modification or supplement to this Agreement shall be valid and binding on any of the Parties unless it is represented in writing and signed by each of the Parties hereto.

27. Counterparts. This Agreement and any amendments hereto may be executed in counterparts, each of which is deemed an original and all of which, when taken together, constitute one and the same instrument.

28. Further Assurances. Each of the Parties hereto shall execute and deliver, at their own cost and expense, any and all additional papers, documents, or instruments, and shall do any and all acts and things reasonably necessary or appropriate in connection with the performance of its obligations hereunder in order to carry out the intents and purposes of this Agreement.

29. Authority. Each Party represents and warrants that: (a) it is duly organized and validly existing under the laws of the State of its incorporation or formation and has

full power and authority to enter into this Agreement and to carry out the provisions hereof; (b) it is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder; (c) it is not under any pre-existing obligation inconsistent with the provisions of this Agreement; (d) this Agreement is a legal and valid obligation binding upon it and enforceable with its terms (except to the extent that enforcement may be limited by or subject to (x) the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally and (y) general equitable principles (whether considered in a proceeding in equity or at law); and (e) the execution, delivery and performance of this Agreement by such Party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it. The representations and warranties and covenants in this Section are continuous in nature and shall be deemed to have been given by each Party at execution of this Agreement and at each stage of performance hereunder.

30. Authority to Execute. Each person executing this Agreement on behalf of a corporation or other legal entity does hereby covenant and warrant that (a) the entity is a duly authorized and existing company, (b) the entity has, was and is qualified to do business in California, (c) the entity has full right and authority to enter into this Agreement, and (d) each person signing on behalf of an entity is authorized to do so.

31. Limitation on Damages. Kiwanis acknowledges that T-CCWD and TVRPD would not have entered into this Agreement if T-CCWD or TVRPD could become liable for damages under or with respect to this Agreement. Consequently, and notwithstanding any other provision of this Agreement, except for the payment of attorneys' fees in accordance with Section 18 and court costs, T-CCWD and TVRPD shall not be liable in damages under this Agreement to Kiwanis or any of the Kiwanis Personnel and Kiwanis, on behalf of itself and each of the Kiwanis Personnel hereby waives any and all rights to claim damages of any other kind or nature from T-CCWD and TVRPD including without limitation, Claims for lost profits, consequential, incidental, indirect, special, collateral, exemplary or punitive damages.

32. Survival. All terms of this Agreement which are expressly stated to extend, or by their nature extend, beyond the expiration or termination of this Agreement, shall remain in effect until fulfilled and apply to respective successors, heirs and assigns. Not by way of limiting the foregoing, the Parties acknowledge and agree that all indemnification and insurance requirements, and all requirements with respect to restoration of the License Areas, shall survive the termination of this Agreement.

33. Headings. The Section (or sub-Section) headings set forth throughout this Agreement are for convenience only and are not intended to affect the meaning of the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

“Kiwanis”

THE KIWANIS CLUB OF TEHACHAPI, a
California corporation

By: _____

Name: _____

Title: _____

“TVRPD”

**TEHACHAPI VALLEY RECREATION AND
PARK DISTRICT**, a California recreation and
parks district

By: _____

Name: _____

Title: _____

“T-CCWD”

**TEHACHAPI-CUMMINGS COUNTY WATER
DISTRICT**, a county water district

By: _____

Name: _____

Title: _____

EXHIBIT “ ”

CONCEPTUAL EVENT MAP

EXHIBIT “ ”

TEHACHAPI PADDLE RACE FESTIVAL RULES OF OPERATION

In addition to the terms and conditions of the License Agreement of which this document is a part, Kiwanis shall also comply with the following rules of operation:

1. Kiwanis shall provide sufficient security personnel at License Areas and the areas immediately adjacent to the License Areas throughout the term of this Agreement and to the satisfaction of the TVRPD's Manager. Said security personnel shall be adequate to police the activities of all Festival Participants in and visitors to the Festival in the License Areas and the areas immediately adjacent thereto during the term of this Agreement.

2. Kiwanis shall furnish, at its own expense, such personnel as are necessary to control and direct parking, give traffic directions, and provide crowd control in the manner and to the satisfaction of the TVRPD's Manager. Kiwanis shall furnish, at its own expense, such crowd control barriers as are necessary for the safety of the public;

3. Kiwanis, at its own expense, shall provide all necessary sanitary facilities to accommodate the expected crowds throughout the term of this Agreement and provide adequate medical facilities including, but not limited to an ambulance and first aid facilities throughout the term of this Agreement;

4. Kiwanis, at its own expense, shall obtain all licenses, permits, and other authorizations required by applicable agencies, promptly pay and discharge all lawful taxes and assessments which may be levied by any federal, state, county or other tax levying body or any taxable interest of Licensee as well as all taxes and assessments on taxable personal property of whatever nature owned by Kiwanis and located on the License Areas, and promptly pay all excise, license, sales , and permit fees of whatever nature applicable to the operation of the Festival business;

5. Kiwanis shall, at its own expense, ensure that adequate and proper access for operators, concessionaires, visitors, participants, and emergency vehicles to the License Areas is provided and maintained at all times during the term of this Agreement. Further, Kiwanis shall set aside, identify by appropriate signage, and keep clear for use a passenger loading area at the License Areas equal in length to at least two regulation automobile parking spaces situated side-by-side to be used exclusively for the loading and unloading of persons with restricted mobility including the handicapped , elderly, and infirm.

6. Kiwanis shall be responsible for and perform all repair and maintenance of all areas of the Premises impacted by Festival set-up or Festival Activities, including, without limitation, the mitigation of soil compaction and irrigation, plumbing, electrical and/or structural repairs under this Agreement and be responsible for and perform all clean up and removal of any and all trash, debris, barricades, concession stands, signs,

and all such other items arising out of the Festival set-up and Festival Activities and Kiwanis shall restore the area to the condition existing immediately prior to the commencement of the Festival set-up.

7. Kiwanis shall provide the TVRPD and/or its affiliate, the Tehachapi Parks Foundation, with a predetermined vendor site within the License Areas for the duration of the term of this Agreement at no cost.

8. Beer & Wine Garden. Kiwanis and TVPRD shall, and shall cause all of the Kiwanis Personnel and Festival Participants to, strictly and promptly observe and comply with all conditions and requirements of the County of Kern and the Kern County Sheriff's Office regarding the conduct and operation of alcohol sales at the Festival.

9. Bleachers. Kiwanis may use three or four stand-alone folding steel and aluminum bleachers. If heavy winds are anticipated or arise during the Festival Period, Kiwanis shall secure the bleachers to the ground by bolting the bleachers to the ground or use heavy sandbags sufficient to secure the bleachers to the ground. Kiwanis will also cause Kiwanis Personnel to monitor the bleachers for roughness or poor conduct by Festival Participants.

10. Buoys. Kiwanis may use environmentally safe plastic buoys secured with marine nylon rope to form the lanes and secure them with small steel or concrete weights. The weights shall be intermittent and all wrapped in protective booties to protect the bottom of Brite Lake and T-CCWD's equipment in the lake. No anchors that scrape the bottom of the Lake shall be used. The weights must rest gently on the bottom of the lake and must not have any contact with the lake bottom or T-CCWD equipment; only the protective booties may touch the lake bottom or T-CCWD equipment on the lake bottom.

11. Water Craft. No gasoline or diesel internal combustion craft are permitted on the water at any time. Kiwanis, Kiwanis Personnel and Festival Participants may use only low powered electrical propulsion boats and paddle boats.

12. Parking. Parking for Kiwanis Personnel, Festival Participants and media shall be permitted only as consistent with the Event Map agreed to by T-CCWD and TVRPD.

13. No swimming. Because Brite Lake is a reservoir that holds water delivered to customers of T-CCWD for various uses, including some domestic uses, by law swimming is not and shall not be permitted in Brite Lake and bodily contact with the water in Brite Lake is strictly prohibited. Kiwanis and TVRPD shall, and shall cause all of the Kiwanis Personnel and Festival Participants to, strictly and promptly, observe and comply with this no swimming, no bodily contact restriction. TVRPD will provide "No Swimming" signage around the lake at multiple appropriate locations. Paddle Boards and 1 and 2 person Kayaks are may be launched from the shore; 1 and 2 person canoes and 10 person Dragon Boats shall be launched from a secured pier. Kiwanis

and TVRPD shall cause U.S. Coast Guard certified lifeguards to ensure safety and enforcement of all recreational activities on the water during the Festival. In the event any person falls in the water or otherwise disregards these restrictions, Kiwanis and TVRPD shall cause Kiwanis Personnel and TVRPD Personnel to [remedial measures to be agreed on]_____.

14. Boat race course. Kiwanis and TVRPD will lay out the boat race course so that it does not encroach the inlet/outlet structure of the lake at any time. If deemed necessary by T-CCWD, Kiwanis and TVRPD will put up protective buoys around the area.

15. West end of reservoir pedestrian access. Access around the west end of the reservoir is prohibited. Kiwanis and TVRPD shall provide signage and barricades to enforce this. Additionally, no structure or facility to serve as a walkway across the west end of the reservoir near the dam to provide pedestrian access to the spectator walkway on top of the dam, including without limitation, any pontoon barrel, raft, or boats with planks, will be installed without written approval of T-CCWD. Plans for signage and barricades and any plans for any structure or facility to provide pedestrian access must be submitted to T-CCWD for approval as part of the Event Map process set forth in paragraph 4 of the License Agreement.

16. No sand beach. No sand beach shall be installed or used.

17. Safety. Safety shall be the keynote of the activities carried on by Kiwanis under this Agreement and anyone, whether a representative of Kiwanis, a participant, concessionaire, contractor, security personnel, spectator or visitor or any other person at the License Areas during the term of this Agreement deemed to be acting in a manner inappropriate with the requirement of safety to himself or herself or others shall be expelled from the License Areas and barred from reentry. It shall be the duty of Kiwanis to ensure that safety will be observed at all times and Kiwanis shall take all steps necessary, including expulsion, in the event Kiwanis feels that safety is being compromised or violated. If, at any time, the T-CCWD General Manager, the TVRPD's Manager or, *in the Manager's absence*, the highest official representative of TVRPD listed in writing at the License Areas is of the opinion that Kiwanis is not fulfilling its requirement hereunder, said Manager or other District personnel may stop certain activities of Kiwanis or, in the alternative, expel those individuals felt to be compromising safety. Other applicable law enforcement agencies shall have full authority to order such activities stopped or to direct correction of any unsafe condition or practice observed at the License Areas.

18. Non-Discrimination. Kiwanis shall not discriminate against any person or class of person by reason of age, sex, race, color, creed, national origin, religion, ancestry, or disability in the use of the License Areas including when administering all charges, admission fees and concession charges, which charges shall be administered on a fair, equal, and non-discriminatory basis to all persons. It shall be the sole responsibility of Kiwanis to administer all such fees and charges.