

Casitas Municipal Water District  
RECREATION COMMITTEE  
Special Meeting Agenda  
Brennan/Kaiser  
**April 9, 2021 – 10:00 a.m.**

This meeting will be conducted via teleconference.  
To participate or listen to the meeting please call  
(888) 788-0099 or (877) 853-5247  
Enter Meeting ID 990 0462 2103#  
Passcode: 261989#

1. Roll Call
2. Public comments.
3. Board/Management comments.
4. Discussion of LCRA Park Store and Casitas Water Adventure Concessionaire Contracts.
5. Lake Casitas Recreation Area User Fee Survey.
6. Discussion of the Provision of a Walk-In Customer LCRA User Fee.
7. Discussion of LCRA Fishing Tournament and Moonlight Tournament/Night Fishing Fee Adjustments.
8. Review of February 2021 Recreation Report.
9. Review of Incidents and Comments.

Right to be heard: Members of the public have a right to address the Board directly on any item of interest to the public which is within the subject matter jurisdiction of the Board. The request to be heard should be made immediately before the Board's consideration of the item. No action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of §54954.2 of the Government Code. If you require special accommodations for attendance at or participation in this meeting, please notify our office 24 hours in advance (805) 649-2251 ext. 113. (Govt. Code Section 65954.1 and 54954.2(a). Please be advised that members of the Board of Directors of Casitas who are not members of this standing committee may attend the committee meeting referred to above only in the capacity of observers, and may not otherwise take part in the meeting. (Govt. Code Sections 54952.2(c)(6)

# MEMORANDUM

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TO: Recreation Committee  
From: Michael L. Flood, General Manager  
RE: **Discussion of LCRA Park Store and Casitas Water Adventure Concessionaire Contracts**  
Date: April 5, 2021

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## RECOMMENDATION:

Recreation Committee forward the information contained in this memo for further consideration by the Board of Directors.

## BACKGROUND:

The Casitas Municipal Water District and the Bureau of Reclamation completed and approved a twenty-five year Management Agreement for the Lake Casitas Recreation Area in October 2011 allowing Casitas to enter into Concession agreements.

On January 11, 2017, a five-year concession agreement between Casitas Municipal Water District and Carlos Hernandez (Concessionaire) was entered into for the operation and management of the Casitas Water Adventure Temporary Seasonal Snack Bar Concession at Lake Casitas Recreation Area. The Temporary Seasonal Snack Bar provides customers visiting the Casitas Water Adventure with food and snack options. The Casitas Water Adventure Temporary Seasonal Snack Bar agreement is set to expire in January of 2022.

The Snack Bar was not operated during the 2020 and 2021 seasons due to the COVID-19 related closure of the Casitas Water Adventure.

In May of 2012, a ten-year concession agreement between Casitas Municipal Water District and The Lake Casitas Park Store, Ni-Lu Corporation was entered into for the operation and management of the Lake Casitas Park Store. The Park Store has non-exclusive rights to sell to the general public various goods such as canned and packaged food supplies, soft drinks, beer, wine, propane, ice, firewood, sporting goods, and camping supplies. The Park Store agreement is set to expire in April 2022.

The Lake Casitas Park Store was closed for approximately five months during 2020 and 2021 due to the COVID-19 related closure of the entire Lake Casitas Recreation Area as well as the State of California prohibition of overnight camping.

Under their respective agreements, both the Snack Bar and the Park Store may be amended or modified by written agreement by the Parties.

## DISCUSSION:

### Casitas Water Adventure Temporary Seasonal Snack Bar Concession:

Mr. Hernandez's operation of the Snack Bar has been successful and has proven to be financially beneficial to Casitas. The closure of the Casitas Water Adventure for the 2020 and 2021 season due to the COVID-19 pandemic affected the last two seasons to operate the Snack Bar under the current agreement.

The process to begin the request for proposals should begin in November 2021 with the proposal submittal deadline in December 2021.

Due to the inability for the snack bar to be operated because of the COVID-19 pandemic, staff recommends that the Casitas Water Adventure Temporary Seasonal Snack Bar Concession agreement be amended to extend the agreement for a period of one year (January 2023).

### Lake Casitas Recreation Area Park Store:

The closure of the Lake Casitas Recreational Area due to the COVID-19 Pandemic from March 2020 until June 2020, and again from December 2020 to January, 2021, accounted for the Park Store's loss of business for approximately five months.

The typical process to begin the request for proposals (RFP) would begin January, 2022 with the proposal submittal deadline in February, 2022. The Park Store concessionaire contract would be assumed to be awarded shortly after that.

The Concessionaries agreement between Casitas and the Park Store, dated May 1, 2012, section 7-Term of Agreement, sub-section C, states "In the event Concessionaire holds over beyond the term herein provided, with the express written consent of Casitas, such holding over shall be from a month-to-month only, subject to the terms and conditions of this agreement and shall not be a renewal thereof".

Staff recommends that Casitas provides an amendment to the contract that extends its term through December 31, 2022. This will allow the Park Store concessionaire additional operating time due to the COVID-19 related closure.

The RFP process would commence in the September 2022 with award being assumed to be made in November 2022.

**CASITAS MUNICIPAL WATER DISTRICT**



**CONCESSION AGREEMENT  
FOR THE OPERATION AND MANAGEMENT OF  
THE CASITAS WATER ADVENTURE  
TEMPORARY SEASONAL SNACK BAR  
AT LAKE CASITAS RECREATION AREA**

Lake Casitas Recreation Area,  
11311 Santa Ana Road, California 93001  
(805)-649-2233

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**AGREEMENT FOR THE OPERATION AND MANAGEMENT  
OF THE CASITAS WATER ADVENTURE TEMPORARY SEASONAL  
SNACK BAR CONCESSION AT  
LAKE CASITAS RECREATION AREA**

THIS AGREEMENT, is made this 11th day of January 11, 2017, by and between **CASITAS MUNICIPAL WATER DISTRICT** (hereinafter referred to as "Casitas") and **CARLOS HERNANDEZ** (hereinafter referred to as "Concessionaire").

**WITNESSETH:**

WHEREAS, the United States has constructed the Ventura River Project, including Casitas Dam and reservoir, pursuant to Act of Congress (Public Law 423, 84<sup>th</sup> Cong., 2d session) approved March 1, 1956, for irrigation, for furnishing water for municipal and domestic use, and for providing incidental recreation and fish and wildlife benefits; and

WHEREAS, the United States has contracted with Casitas pursuant to Contract No. 14-06-200-5257 "contract between United States and Ventura River Municipal Water District Providing for the construction of a Storage and Conveyance System", dated March 7, 1956, for repayment of federal costs incurred in construction of the Ventura River Project, for operation and maintenance of Project Works, with the stipulation that the title Ventura River Project remains with the United States; and

WHEREAS, the U.S. Bureau of Reclamation (hereinafter referred to as "USBR") has developed a Final Resource Management Plan/Environmental Impact Statement for Lake Casitas dated February 2010 with a Record of Decision #10-111, copies of which are provided under separate cover; and

WHEREAS, Lake Casitas Recreation Area (hereinafter referred to as "LCRA") is the property of the United States Government managed by the USBR, operated by Casitas under Management Agreement Number 11-LC-20-0216, dated October 7, 2011, between the USBR and Casitas, a copy of which is provided under separate cover; and

WHEREAS, Casitas is authorized by said Management Agreement to issue and administer third party contracts for concessions and services for the purpose of providing appropriate and necessary services, goods, and facilities for the use of the visiting public consistent with said Management Agreement and in accordance with any current or future planning documents, and

WHEREAS, Casitas is authorized by the provision of Water Code Section 71,000 et seq. to enter into an agreement for concessions and services that are consistent with public recreational facilities appurtenant to facilities operated or contracted to be operated by Casitas; and

WHEREAS, Concessionaire acknowledges that Casitas, in its sole discretion, controls access to the LCRA, and that Concessionaire's business volume is limited to persons granted access to the LCRA by Casitas; and,

WHEREAS, Concessionaire acknowledges that Casitas imposes reasonable fees and charges on LCRA users, and that Concessionaire's business volume will likely be limited to those persons subject to those Casitas fees and charges; and,

WHEREAS, the words of this Agreement have been chosen specifically to support Casitas' directives and standards and to create a customer base, attract and serve the public and to operate current and future recreational facilities and ancillary services; and

WHEREAS, Concessionaire is willing to exercise the grant of such a concession in accordance with the terms and conditions prescribed; and

WHEREAS, the parties hereto desire to enter into an Agreement for the operation and administration of Casitas Water Adventure (hereinafter referred to as "CWA") Temporary Seasonal Snack Bar (hereinafter referred to as "Snack Bar") concession services; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, the parties hereto and each of them agree as follows:

1. **INCORPORATION BY REFERENCE**

All Schedules and Exhibits attached hereto are incorporated by reference herein.

2. **DEFINITIONS**

See Appendix 1 for definitions used in this Agreement and Appendix 2 for abbreviations and acronyms.

3. **INTERPRETATIONS**

(a) This Agreement shall be interpreted according to the rules that govern the interpretation of contracts, as prescribed in Part 2 of Division 3 of the California Civil Code, commencing with Section 1635.

(b) For jurisdictional purposes, this Agreement shall be deemed entered into and enforceable in Ventura, California.

(c) Any reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended, replaced, consolidated or re-enacted.

(d) A reference to a person includes firms, partnerships, corporations, limited liability company and other business organizations and their successors and permitted assignees or transferees.

(e) Headings are for convenience and reference only.

4. **GRANT OF CONCESSION**

In consideration of the Concessionaire's obligations contained in this Agreement, Casitas hereby authorizes and grants Concessionaire the non-exclusive use of the Demised Premises to operate and maintain a non-exclusive CWA Snack Bar limited to the time frame that coincides with the seasonal operation of the CWA and commercial activities described herein. The Concessionaire hereby accepts such authorization and grant upon the terms and conditions of this Agreement. Nothing in this Agreement shall be construed by Concessionaire as preventing Casitas from constructing, operating or contracting for additional concession facilities of any type.

5. **DEMISED PREMISES**

The operation of the Concession shall be conducted on the real property described in Exhibit A attached hereto on a temporary basis and only during the CWA season.

(a) Condition of Demised Premises "AS IS". Concessionaire accepts the Demised Premises in "As Is" condition, and further agrees to make no demands upon Casitas for any improvements or alterations to the Demised Premises, except as may otherwise be provided herein.

(b) Temporary Seasonal Facilities. Each year of this Agreement, Concessionaire will provide a temporary snack bar facility or mobile unit on the Demised Premises prior to the commencement of the CWA season and remove same from the LCRA at the end of each season, or, if desired, during non-hours of operation. The season operation generally runs from Memorial Day through Labor Day.

(c) No Exclusive Use. Under no circumstances will long-term, private, exclusive use be permitted within the Demised Premises. The Concessionaire is not authorized to permit or grant any visitor, person, employee, or

organization exclusive rights to occupy or use the subject services or facilities or preclude use by the public. The Concession contract is issued on a **non exclusive** use basis.

(d) Use of Demised Premises. The premise shall be used only for said purposes, and such other purposes as are related thereto provided express approval is granted by the Casitas General Manager, and for no other purposes whatsoever.

(e) Relocation. Casitas shall have the option to require Concessionaire to relocate the Snack Bar to a different location in the LCRA ("New Demised Premises"). Casitas may exercise such option by giving Concessionaire written notice not less than thirty (30) days prior to the proposed effective date of relocation. If Casitas exercises its option to relocate the Demised Premises, Concessionaire shall relocate to the New Demised Premises at no cost or expense to Casitas, except as otherwise provided in subparagraph (f) and (g).

(f) Casitas' Obligations. To the extent that the original Demised Premises includes structures, buildings, improvements, or fixtures owned by Casitas, then Casitas shall pay for improving the New Demised Premises so that they are substantially similar to that portion of the original Demised Premises owned by Casitas, but Casitas shall not bear any other costs or expenses incurred by Concessionaire in relocating from the original Demised Premises to the New Demised Premises including, but not limited to, salaries of Concessionaire staff for time allocated to such relocation, legal fees, or Concessionaire's loss of business revenue.

## 6. INUNDATION OR DROUGHT

The water level of Lake Casitas is subject to change and fluctuation from natural causes, and/or the use of water of the reservoir for domestic water supply, diversion channels and other purposes. In the event that the Demised Premises are permanently inundated or in the event that drought or imminent threat of permanent inundation affects the Demised Premises such that the rights granted to Concessionaire hereunder can no longer be exercised, Concessionaire may, at no cost or expense to Casitas, relocate to an alternate site mutually agreed upon in writing by Casitas and Concessionaire, and this Agreement shall remain in effect for the remaining portion of its term. In the event of inundation or drought which precludes the exercise of the rights granted to Concessionaire hereunder, and the parties are unable to mutually agree upon an alternate site in the LCRA, this Agreement shall terminate.

## 7. TERM OF AGREEMENT

(a) The term of this Agreement will be for five (5) years from the date first written above, unless terminated sooner as provided in Paragraph 23 herein.

(b) There is no clear or inferred right of first refusal clause incorporated in this Agreement for subsequent agreements of similar nature.

(c) The Demised Premises shall be considered vacated after all areas, including storage and parking areas, are clear of all of Concessionaire's belongings, and keys and other property furnished for Concessionaire's use are returned to Casitas. Should Concessionaire hold over beyond the termination date or fail to vacate the Demised Premises on or before the termination date, Concessionaire shall be liable for additional rent and damages which may include damages due to Casitas loss of prospective new Concessionaires.

(d) The Concessionaire understands and agrees that the USBR will not carry forward agreements and contracts should the Management Agreement between Casitas and the USBR expire or terminate.

## 8. PAYMENTS

For the use granted herein, Concessionaire agrees to pay Casitas as follows:

(a) Percentage Rent of fifteen percent (15%) of gross sales made from or upon the Demised Premises during the term hereof.



(b) Miscellaneous Charges for any services, equipment, and labor provided by Casitas for wastewater hauling or other services as requested by Concessionaire. Miscellaneous charges will be invoiced by Casitas to the Concessionaire and paid in a timely manner in accordance with Casitas requirements.

(c) Place and Date of Payment. Concessionaire shall make all required payments by check or draft issued and payable to the "Casitas Municipal Water District," and mailed to Lake Casitas Recreation Area, 1055 Ventura Blvd. Oak View, California 93022, or such other place designated in writing by Casitas. Concessionaire shall compute the Percentage Rent each calendar month during the term and shall pay the Percentage Rent and Miscellaneous Charges to Casitas on or before the fifteenth (15<sup>th</sup>) day of the immediately following calendar month. Concessionaire agrees to deliver or cause to be delivered to Casitas, within fifteen (15) days following the end of each calendar month during the term, a written statement signed and certified by Concessionaire to be true and correct, showing in accurate detail the amount of Concessionaire's Gross Sales for the preceding calendar month, together with remittance of the Percentage Rent due and Miscellaneous Charges. In addition, Concessionaire shall furnish Casitas with an annual financial statement and a balance sheet prepared according to standard accounting principles. The financial statement shall be submitted within sixty (60) days of the close of an annual year.

(d) Late Charge. A late payment charge of two percent (2%) per month shall be added to any payments received after the last day of the calendar month in which payment is due. Casitas is not obligated to notify Concessionaire of accumulated late charges.

(e) Adjustments to Gross Sales. There shall be no deduction from gross receipts for any overhead or cost or expense of operations, such as, but without limitation, salaries, wages, costs of goods, interest, debt amortization, credit, collection costs, discounts from credit card operations, insurance and taxes. Bona fide bad debts actually incurred by Concessionaire or its subcontractors, assignees, licensees, concessionaires and permittees may be deducted from gross receipts. There shall, however, be no deduction for bad debts based on past experience or transfers to a bad debt reserve. Subsequent collection of bad debts previously reported as gross receipts shall be included in gross receipts at the time they are collected.

(f) Concessionaire is not guaranteed a profit.

## 9. ACCOUNTING

Concessionaire hereby agrees at all times during the term to use a point of sale computer system or other device to accurately record all sales and keep true, full and accurate books of account containing a complete statement of Concessionaire's Gross Sales in accordance with generally accepted accounting principals and practices (showing all of its sales separate from its other concessions and/or stores). The electronic data processing and record keeping equipment shall contain such features as the Casitas General Manager may reasonably require for the purpose of assuring that an accurate record of the transaction is created and retained by the equipment to be use.

(a) Records. Concessionaire shall maintain accounting books and records including, but not limited to, daily sales records and journals, sales returns and allowance detail, cash receipts, accounts receivable, disbursement journals, bank statements, deposit slips, inventory records, purchase orders, receiving records, state sales and use tax returns and a complete general ledger.

(b) Storage. All accounting books and records maintained by Concessionaire shall be kept by Concessionaire for a period of no less than three (3) years after the close of each calendar year

(c) Inspection. Concessionaire hereby grants to Casitas and its agents and accountants the right, during Concessionaire's normal business hours and upon reasonable notice, to inspect such books and records kept in connection with the business done or transacted in or upon the Demised Premises, for the purpose of verifying Concessionaire's Gross Sales. Casitas, for itself and for its agents and accountants, agrees to keep confidential all sales figures, audits and reports furnished by or obtained from Concessionaire, as between Casitas and its attorneys, lenders, financial partners, if any, accountants and other financial advisors.

(d) Audit. At any time and from time to time, Casitas may elect to perform an audit of Concessionaire's Gross Sales, provided such audit shall not unreasonably interfere with the operation of Concessionaire's business. Such audit shall be conducted by either Casitas or a certified public accountant to be designated by Casitas in its sole

discretion. If any statement of Concessionaire's Gross Sales previously furnished by Concessionaire shall reflect less than ninety-seven percent (97%) of the amount of Concessionaire's Gross Sales as shown by such audit and additional Percentage Rent is payable by Concessionaire as a result of such understatement, or if such audit shows that Concessionaire has failed to maintain the books and records required herein so that Casitas is unable to verify the accuracy of any statement of Concessionaire's Gross Sales previously furnished by Concessionaire, then Concessionaire shall immediately pay to Casita all reasonable costs and expenses (including reasonable auditor and attorney fees) which may be incurred by Casitas in conducting such audit and collecting such underpayment, if any. In any event, Concessionaire shall promptly pay to Casitas all additional Percentage Rent shown by audit to be payable hereunder, together with interest at the maximum lawful rate from the date when said payment should have been made. If Concessionaire shall understate Gross Sales by more than three percent (3%) three (3) or more times during the Term, Concessionaire shall be deemed in default under Paragraph 24 of this Agreement and Casitas shall have all rights and remedies as are set forth in subparagraphs (a) through (q).

(e) Subcontractors. Concessionaire shall cause all of its subcontractors to comply with the accounting requirements set forth above to the extent those requirements are applicable, and all other applicable requirements of this Agreement.

## 10. OPERATIONS.

### (a) General

- (1) Compliance. Concessionaire shall comply with all applicable Federal, State, and local laws, rules, regulations and procedures; and obtain permits and/or licenses that are required for the Concession, including a mobile food facility valid Health Permit from Ventura County, or equivalent standard, and must be prominently displayed.
- (2) The parties to this Agreement will coordinate regarding any administration, operation, maintenance and development activities pursuant to this Agreement. It is of chief priority that any such activities do not affect any project water management, operation, and maintenance activities of Casitas, and, in the opinion of Casitas, will not interfere with Casitas' water retention and delivery operations in the Recreation Area.
- (3) Concessionaire shall have non-exclusive rights to operate the Snack Bar only during the CWA annual seasons and is obligated to stock and sell goods and supplies that are needed, desired and appropriate in a public waterpark environment and recreational campground setting. Casitas reserves the right to deny specific goods.
- (4) Concessionaire shall maintain a cell phone or other appropriate methods for Casitas to directly contact the Concessionaire. Concessionaire shall respond to any message left by Casitas within a twenty-four (24) hour time frame.
- (5) Concessionaire warrants and agrees to fully comply with all laws, conditions and requirements contained in Exhibits B through E attached hereto and made a part hereof, including, but limited to, all laws regarding discrimination (Title VI of the Civil Rights Act of July 2, 1964 (78 Stat. 241), Americans with Disabilities, hiring, recruitment and employment of staff including, but not limited to, labor laws, workers compensation requirements, Immigration Reform and Control Act of 1986.
- (6) Concessionaire shall not enter into a sub-concession or any agreement to subcontract any service without the prior approval and written consent of Casitas. In the event that Concessionaire chooses, with Casitas' consent, to subcontract any particular service, this Concession Agreement shall be amended to provide for the proposed additional service(s).
- (7) The Concession is subject to the LCRA entrance requirements including, but not limited to, entrance fees, permits, inspections and quarantines, and restrictions as deemed necessary or otherwise approved by the Casitas Board of Directors.

- (8) In the event Concessionaire fails to remove the Snack Bar within thirty (30) days of the last day of each season, then same may be removed or demolished by Casitas and Concessionaire shall reimburse Casitas for any cost or expense in connection therewith.

(b) Concessionaire Staff

- (1) Facilities Manager. Concessionaire shall be the Facility Manager with whom Casitas may deal on a daily basis. The Facility Manager shall be fully acquainted with the Concession operations, familiar with the terms and conditions prescribed therefor by this Agreement, and authorized to act in the day-to-day operation thereof.
- (2) Facilities Staff. The parties hereto will ensure that adequate personnel are available to accomplish the operation, administration and maintenance of the Demised Premises as agreed to herein. The Concessionaire is required to keep an updated list of all employees, service and delivery companies and contractors on file with Casitas at all times. Such employees, service and delivery companies and contractors will not necessarily be granted access into the LCRA. All employees must be eligible for employment under the state of California employment laws. Concessionaire and employees must represent the Concession in an appropriate and professional manner. Unprofessional or inappropriate behavior on the part of Concessionaire or his/her employees towards Casitas staff and/or customers will be investigated and may warrant removal of park privileges.
- (3) Tuberculosis Screen. Concessionaire shall not employ any person who cannot produce a certificate showing that within the last two (2) years the person has been examined and has been found to be free of communicable tuberculosis. Concessionaire staff shall be required to undergo the foregoing examination at least once every four (4) years. Any staff that has a documented positive skin test confirmed by X-ray shall be immediately referred to the County's Health Officer. "Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000), Division 2 of the California Business and Professions Code, or a notice from a public health agency or unit of the Tuberculosis Association, which indicated freedom from active tuberculosis.
- (4) Compliance; Employee Documentation; Indemnity. Concessionaire warrants that it fully complies with all applicable employment laws. Concessionaire further warrants that all its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). Concessionaire shall obtain and retain all verification and other documentation of employment eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended.
- (5) Employee Conduct. The Casitas General Manager may at any time give Concessionaire written notice to the effect that the conduct or action of an employee of Concessionaire is, in the reasonable belief of the Casitas General Manager, detrimental to the interest of the public patronizing the Demised Premises. Concessionaire shall meet with the Casitas General Manager to consider the appropriate course of action with respect to such matter.

(c) Prices

- (1) Pricing Policy and Review. Concessionaire shall at all times maintain a complete list or schedule of the prices charged for all goods or services supplied to the public. Said prices shall be fair and reasonable based upon comparability with prices charged for similar goods and/or services in the Ventura and Santa Barbara County areas. In the event Casitas notifies Concessionaire that prices being charged are not fair and reasonable, Concessionaire shall have the right to confer with the Casitas General Manager and justify said prices. Following reasonable conference and consultation thereon, Concessionaire shall either make such price adjustments as may be ordered by the Casitas General Manager or appeal the implementation of such adjustments to the Casitas Board of Directors, whose decision

thereon shall be final and conclusive. However, Concessionaire shall comply with the ordered price adjustment pending the appeal and final ruling thereon by Casitas' Board of Directors.

- (2) Complimentary Services and Reduced Rates. The Concessionaire shall require its employees to observe strict impartiality as to rates and services in all circumstances. The Concessionaire may, subject to the prior written approval of the General Manager, grant complimentary or reduced rates under such circumstances as are customary in businesses similar to that which will be conducted under this Concession Agreement. However, the General Manager reserves the right to review and modify the Concessionaire's complimentary or reduced rate policies.

(d) Authorized Goods and Services

- (1) Concessionaire is authorized non-exclusive rights to sell to the general public prepared and packaged snack bar food supplies, confections, soft drinks, approved personal products, souvenirs and clothing. The Snack Bar Concession shall be specifically excluded from selling fireworks, weapons and firearms including, but not limited to, knives, slingshot, bow and arrow, bowfishing equipment, bait and tackle, guns and/or rifles of any type and any items which Casitas deems inappropriate or offensive. Any other goods and services desired to be provided by the Concessionaire beyond that listed above must be requested in writing by the Concessionaire and receive prior written approval by the Casitas General Manager.
- (2) The supply in the Snack Bar shall be ample in quantity and appropriate to meet the needs of the visiting public. All food, beverages, confectionary and other products intended for human consumption shall be of a high standard of quality, and pricing specified above.
- (3) Concessionaire may **not** obtain an Off-Sale Beer and Wine License for the sale of beer and wine from the California Department of Alcoholic Beverage Control for this location.
- (4) All goods and services sold by Concessionaire shall conform to Federal, State and local laws, ordinances and regulations. Following receipt of written notification that the provision of such goods or services is harmful to the public welfare, Concessionaire shall immediately remove or withdraw from sale any goods or services which may be found objectionable to the Casitas General Manager.

(e) Hours of Operation

Concessionaire shall establish regular hours of operation that will accommodate the visiting public demands. Upon commencement of the Concessionaire Agreement and by April 1 of each succeeding year, the Concessionaire shall submit to Casitas for review, change and approval a written seasonal schedule of hours (opening and closing times) for the operation. Any change to the schedule must be submitted to, and approved by, Casitas prior the implementation of the schedule change.

(f) Security

- (1) Concessionaire acknowledges the need for securing the Demised Premises and shall provide at its sole expense any legal devices, installation, or equipment designated for the purpose of protecting the Demised Premises from unlawful conduct including, but not limited to, theft, burglary or vandalism, provided written approval for said security measures is first obtained from the Casitas General Manager.
- (2) Concessionaire employed security personnel have no authority to take law enforcement action or carry firearms. Concessionaire shall comply with all law enforcement protocol within the LCRA pursuant to Casitas' Ordinances. Concessionaire will work with Casitas to ensure law and order is maintained and preserved and protect recreation facilities, resources and lands from unauthorized use related to any and all concession activities pursuant to this

Agreement. Concessionaire may bear the cost and administration of additional law enforcement services required or specifically requested through local law enforcement such as the County of Ventura. In the event an incident arises where more than one law enforcement agency responds, the federal law enforcement agency shall have precedence over State and County law enforcement agencies and the Concessionaire may bear any cost billed in association with any services requested by Concessionaire.

(g) Safety

Concessionaire shall use its best efforts to correct any unsafe condition of the premises, as well as any unsafe practices occurring thereon. Concessionaire shall use its best efforts in requesting local paramedical assistance for any member of the public who is in need thereof, because of illness or injury occurring on the premises. Concessionaire shall cooperate fully with Casitas in the investigation of any accidental injury or death occurring on the premises, including a prompt report thereof to the Casitas General Manager. Concessionaire shall make safety improvements as requested by Casitas' General Manager, insurance carrier or the Board.

(h) Advertising and Promotion

Concessionaire is responsible for the advertising and promotion of his/her own business.

- (1) Signs. Concessionaire shall not post advertising signs or other materials upon the Demised Premises without prior written approval from Casitas. Concessionaire acknowledges that Casitas greatly limits such approval in order to maintain the natural setting of the LCRA. Outdoor signs or other forms of advertising (e.g. web, newspaper, etc) must not be displayed on LCRA property or provided to, or allowed to be accessed by, the public without the prior review and written approval of Casitas. All signs will be professionally made. All signage must include an approved USBR logo or name and Casitas Municipal Water District and/or Lake Casita Recreation Area logo or name.
- (2) Concessionaire shall not promote or sponsor private or public events requiring the use of any other areas of the LCRA, other than the Demised Premises or as approved by Casitas. However, this provision shall not prohibit Concessionaire from generally advertising or encouraging public use of the LCRA in a manner that complies with the provisions of this Agreement. Concessionaire shall not promulgate, nor cause to be distributed, any advertising or promotional materials objectionable to Casitas. Casitas shall require all advertising in newspapers, magazines and trade journals, radio and television commercials and other advertising be approved in advance.
- (3) Where possible, Concessionaire agrees that any advertising or promotional materials promulgated by Concessionaire, which refers to the "Lake Casitas Recreation Area," or any derivative thereof, shall also include the phrase "Casitas Municipal Water District" unless specifically approved otherwise by the Casitas General Manager.

(i) Interruptions of Business

There is the possibility of interruptions of this Concession Agreement. These interruptions could be due to contamination of Lake Casitas, impacts on the Concession Agreement due to construction and maintenance projects, insurance changes, changes in lake level and any other similar business interruptions. Should these interruptions require Casitas to place additional restrictions upon the Concessionaire, Casitas shall not be liable for any expense or loss of business due to Concessionaire's complying with those additional restrictions, as long as the restrictions were consistently applied to other like-users of the LCRA. However, since insurance changes can be mandated by Casitas' insurer, Concessionaire shall not hold Casitas liable for expense or loss of business due to Concessionaire's complying with additional restrictions due to insurance changes, even where those restrictions were not consistently applied to like-users of the LCRA.

(j) Annual Review

Concessionaire shall be evaluated by Casitas under the Concessions Review Program. The Concessions Review Program will consist of four separate evaluations: (1) Operations and Facilities Evaluation, (2) Public Health Service Inspection, (3) Safety and Environmental Evaluation, and (4) Contract Compliance Evaluation. The Operation and Facilities Evaluation shall be conducted annually. All other evaluations shall be conducted as Casitas may desire. Casitas may, at its discretion, terminate this Concession Agreement in the case of an unsatisfactory rating on any of the evaluations.

(k) Utilities

The Demised Premises shall contain a two phase 90 AMP electrical outlet and a one-half inch (1/2") line of potable water. Concessionaire shall contract directly to provide and pay for any other necessary utilities serving the Demised Premises, including trash dumpster rental and the installation of necessary metering devices. Such necessary utilities include, but are not limited to, water, telephone, electricity, trash collection and propane services. The telephone number may be placed in the name of the Concessionaire. Concessionaire waives any all claims against Casitas for compensation for loss or damage caused by a defect, deficiency or impairment of any utility system, water system, water supply system, drainage system, waste system, heating or gas system, electrical apparatus or wires serving the premises. Concessionaire shall pay for any new connections to the existing electrical services.

(l) Sanitation

No offensive matter, or refuse, or substance constituting any unnecessary, unreasonable or unlawful fire hazard, or material detrimental to the public health, shall be permitted to accumulate or remain on the Demised Premises and within a distance of fifty (50) feet thereof. Concessionaire shall pay fees to collect and remove refuse to an area approved disposal site or landfill that is not located within the watershed of Lake Casitas. Refuse shall be removed as needed, but minimally once per week. Concessionaire shall furnish all equipment and materials necessary for refuse collection, including trash receptacles of the size, type, color and number required by the Casitas.

- (1) Debris. Concessionaire shall keep assigned areas free of foul odors, liter, debris, garbage, personal items, stored or abandoned equipment, working or not, vehicles, furniture, and fixtures. No added sanitation facilities shall be allowed. Concessionaire shall engage and pay for services including three (3) yard trash dumpster rental and the removal of the trash and garbage that is generated by the Snack Bar Concession from the LCRA. Casitas will empty trash containers located in the adjacent outdoor picnic areas. Concessionaire shall empty containers located within Demised Premises.
- (2) Concessionaire shall promote recycling and make it convenient for public use.
- (3) Concessionaire shall make every effort to reduce and recycle solid waste generated as a result of the operation of the Water Adventure Snack Bar Concession which may include making arrangements with a local waste hauler to pick up and dispose of waste and recyclable material.
- (4) Sewage Disposal and Gray Water. There are no arrangements in this Agreement to provide the Concessionaire sewage disposal other than in the adjacent public restrooms. Gray water removal and costs associated with its removal will be the responsibility of the concessionaire or in agreement with Casitas as stated in 8 (b) above.

(m) Incident Reporting

Concessionaire shall investigate or cooperate in the investigation by the agency having jurisdiction, all incidents involving death, serious injury or property damage, or other incidents of a serious nature within the Demised Premises. Concessionaire shall make an initial verbal/phone message report on such incidents to Casitas' designated

representative within two (2) hours of knowledge of the incident. Under most circumstances, or when requested by Casitas, Concessionaire shall submit a written incident report via hard copy or e-mail to Casitas' designated representative within two (2) calendar days of the verbal notice.

(n) Hazardous Materials

- (1) Concessionaire may not allow contamination or pollution of the LCRA, waters or facilities and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include, but are not limited to, hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.
- (2) Concessionaire shall comply with all applicable Federal, State, and local laws and regulations, and Casitas' Ordinances, policies, directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in the LCRA, water or facilities.

(o) Pest And Weed Control

Concessionaire shall not permit the use of any pesticides/chemicals on the Demised Premises.

(p) Protection Of Natural And Cultural Resources

- (1) Concessionaire will implement best management practices necessary to minimize sedimentation and erosion; protect land and water resources; prevent and suppress fire; protect against introduction and spreading of noxious weeds and other pests detrimental to natural values, agriculture or public health and safety; and will cooperate in soil and water conservation, and fish and wildlife enhancement practices.
- (2) Concessionaire will comply with the National Environmental Policy Act (NEPA), including the Endangered Species Act (ESA), the National Historic Preservation Act (NHPA) and other related laws as may be enacted or amended.

11. **MAINTENANCE**

(a) **Casitas' Duties.** Casitas shall repair and maintain the areas of and surrounding the Demised Premises. Casitas shall not maintain the any part of the temporary building erected by Concessionaire that is located within the Demised Premises. There shall be no abatement of rent, and no liability of Casitas, by reason of any injury to or interference with Concessionaire's business arising from the making of any repairs, alterations, or improvements to any portion of the Demised Premises. Casitas shall have absolutely no other responsibility to repair, maintain or replace any portion of the Demised Premises at any time. The Concessionaire waives the right to make repairs at Casitas' expense under California Civil Code Section 1942, or under any other law, statue or ordinance now or hereafter in effect.

(b) **Concessionaire's Duties.** Concessionaire shall maintain the Concession equipment and premises in good repair and condition. Concessionaire shall perform and pay for all repairs and replacements in compliance with applicable law. All maintenance and repairs shall be commenced within thirty (30) days of the need thereof and diligently completed. Maintenance includes, but is not limited to:

- (1) **Temporary and Seasonal Facilities Color Palette and Park Theme.** Concessionaire shall endeavor to create an atmosphere that is compatible with a natural park setting. All facility color schemes and façade materials must be approved by the Park Services Manager prior to locating mobile unit or installation.
- (2) **Graffiti Eradication and Control of Graffiti from the Outside Surfaces of Temporary Structures on said Demised Premises.** Concessionaire shall immediately remove graffiti at all times

during the days and hours of operation when observed and repair any property located on the Demised Premises damaged by criminal conduct.

- (3) **Equipment Repair or Replacement.** Repair and replacement of all equipment necessary to conduct Concession operations shall be made at Concessionaire's sole expense. Any replacement equipment purchased by Concessionaire as Trade Fixtures shall be the property and responsibility for maintenance of the Concessionaire. Concessionaire shall dispose of replaced property in an approved manner in accordance Federal, State and local laws and regulations.
- (4) **Concessionaire's Damage Liability.** The Concessionaire is additionally liable for any damage to the Demised Premises resulting from the acts or omissions of the Concessionaire, including, without limitation, any damage relating to a roof penetration caused by the Concessionaire or Concessionaire's invitees and any actual or consequential damage to the Demised Premises and/or building arising from Concessionaire's use of the Demised Premises, Concessionaire's personal property, or systems or equipment serving the Demised Premises that are the responsibility of the Concessionaire to maintain, repair, replace.
- (5) **Default of Maintenance Obligations.** In the event Concessionaire defaults in the exercise of its maintenance obligations assumed herein, Casitas reserves the right to cure said default and seek reimbursement from the Concessionaire for all costs incurred plus a supervisory fee in the amount of ten percent (10%) of the cost thereof. Any reimbursement demand by Casitas under this provision shall be satisfied by Concessionaire within fifteen (15) days.

## 12. FEES AND TAXES

(a) Public LCRA entrance and use fees will be set in accordance with the fee schedule established by Casitas and Casitas shall have the right to collect as income, receipts derived from recreation related permits and contracts which it issues and administers for activities within the LCRA, as authorized in the California Water Code Section 71660 et. Seq.,

(b) The use or occupancy of the Demised Premises by Concessionaire constitutes a property interest which may be subject to possessory interest taxes. Concessionaire will be liable for the payment of such possessory interest taxes and any other taxes which may be levied on the property pursuant to the applicable taxation code. Concessionaire shall pay the applicable County or State agency, before delinquent, all taxes and assessments including said possessory interest tax levied against Concessionaire by reason of use and occupancy of the Demised Premises.

## 13. RIGHTS OF CASITAS AND USBR

(a) The USBR retains the primary jurisdiction over the Ventura River Project and the LCRA. The USBR can give written notice to Casitas if the USBR determines that changes in land use for USBR purposes within the LCRA are necessary. Casitas will give written notice to Concessionaire if any land use changes required by the USBR are necessary.

(b) Casitas or the USBR may close the LCRA, or any portion thereof, including the Demised Premises, to public use whenever it is determined such restriction is necessary in the interest of water delivery project operation, public safety or national security. Casitas' designated representative will give written notice to Concessionaire of any such closure. This notice will be given as soon as practicable after a determination for closure is made and will include the date when the closure becomes effective. Concessionaire will enforce such closure and such enforcement will include coordination and cooperation with Casitas.

(c) The USBR and Casitas reserves the right to establish, grant or utilize additional easements or rights of way over, under, along and across the Demised Premises for utilities and/or public access to the LCRA provided Casitas shall exercise such rights in a manner as will avoid any substantial interference with the operations to be conducted hereunder. Concessionaire shall not claim any damages, loss of business, impact costs or other costs of any kind due to such an easement.



#### 14. INDEMNIFICATION

To the fullest extent permitted by law, Concessionaire shall indemnify and hold harmless and defend Casitas its directors, employees, or authorized volunteers, and each of them from and against the following:

- (a) Any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind and nature whatsoever, for, but not limited to, injury to or death of any person including Casitas and/or Concessionaire, or any directors, officers, employees, or authorized volunteers of Casitas or Concessionaire, and damages to or destruction of property of any person, including but not limited to, Casitas and/or Concessionaire and their directors, officers, employees, or authorized volunteers, arising out of or in any manner directly or indirectly connected with this Agreement, however caused, regardless of any negligence of Casitas or its directors, officers, employees, or authorized volunteers.
- (b) Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Concessionaire.
- (c) Any and all losses, expenses, damages (including damages to the work itself), and other costs, including all costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of Concessionaire to faithfully perform all of its obligations under the contract. Such costs, expenses, and damages shall include all costs incurred by the indemnified parties in any lawsuits to which they are a party.
- (d) Concessionaire shall defend, at Concessionaire's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Casitas or Casitas' directors, officers, employees, or authorized volunteers.
- (e) Concessionaire shall pay and satisfy any judgment, award or decree that may be rendered against Casitas or its directors, officers, employees, or authorized volunteers, in any such suit, action or other legal proceeding.
- (f) Concessionaire shall reimburse Casitas and its directors, officers, employees, or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.
- (g) Concessionaire agrees to carry insurance for this purpose as required by this Agreement. Concessionaire's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Casitas, or its directors, officers, employees, or authorized volunteers
- (h) Concessionaire agrees to indemnify and hold harmless Casitas Municipal Water District and the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising from the Concessionaire's activities under this Agreement.
- (i) The parties hereto shall each be responsible and liable only for the negligent acts or omissions of their respective employees or assigns to the extent provided by law. However, nothing in this Agreement shall be construed to be an admission of fault or liability, and nothing shall limit the defenses and immunities legally available to each party against each other and third parties.

#### 15. INSURANCE

Without limiting Concessionaire's indemnification of Casitas, Concessionaire shall provide and maintain at its own expense during the term of this Agreement the program(s) of insurance covering its operations listed herein. Such insurance shall be provided by insurer(s) satisfactory to the Casitas General Manager and evidence of such programs satisfactory to Casitas shall be delivered to the Casitas General Manager on or before the effective date of this Agreement. Such evidence shall specifically identify this Agreement and shall contain express conditions that Casitas is to be given written notice of at least thirty (30) days in advance of any modification or termination of any program of insurance. Further, all such insurance with the exception of Workers' Compensation insurance, shall be primary to and not contributing with any other insurance maintained by Casitas and shall name Casitas and the United

States Government additional insureds. If Casitas insurance requirements change, the Concessionaire will be required to make changes in their insurance accordingly at Concessionaire's sole expense.

(a) **Certificate of Insurance.** Prior to execution of the Agreement, Concessionaire shall file with Casitas a Certificate of Insurance (Acord Form 25-S or equivalent) signed by the insurer's representative. Such evidence shall include an original copy of the additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to meet all insurance requirements under this Agreement.

(b) **Proof of Insurance.** The Concessionaire shall, upon demand of Casitas, deliver to Casitas such policy or policies of insurance and the receipts for payment of premiums thereon as are required under this Agreement. In the event evidence of such insurance coverage is not provided to Casitas within thirty (30) days prior to the commencement of this Agreement, Casitas shall, at its sole option, obtain such insurance coverage and charge Concessionaire the cost thereof plus any administrative costs involved in obtaining said insurance. Failure to provide required insurance coverage shall result in the loss of the use of the facility. Concessionaire shall provide increased limits of insurance if required of Casitas by Casitas' insurer at no cost or liability to Casitas.

(c) During the entire term and any extension of this Agreement, Concessionaire shall maintain Commercial General Liability Insurance coverage at least as broad as the Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001) with limits no less than ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury property damage and personal injury. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to Casitas) or the general aggregate limit shall be twice the required occurrence limit.

(d) **Required Provisions.** The general liability and liquor liability (if any) policies are to contain, or be endorsed to contain the following provisions:

- (1) The United States of America (Bureau of Reclamation), Casitas, its directors, officers, employees, or authorized volunteers shall be named as additional insured (via ISO endorsement CG 2026 or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of the Concessionaire; products and completed operations of the Concessionaire; premises occupied or used by the Concessionaire. The coverage shall contain no special limitations on the scope of protection afforded to the Casitas, its directors, officers, employees, or authorized volunteers.
- (2) For any claims related to this event, the Concessionaire's insurance shall state that coverage is primary as respects the United States of America (Bureau of Reclamation), Casitas, its directors, officers, employees, or authorized volunteers, and any insurance, self insurance, or other coverage obtained or maintained by Casitas, its directors, officers, employees, or authorized volunteers shall be in excess of said primary coverage and not contributing.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the United States of America (Bureau of Reclamation), Casitas, its directors, officers, employees, or authorized volunteers.
- (4) The Concessionaire's insurance shall apply separately to the insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. Mail has been given to Casitas.
- (6) Such liability insurance shall indemnify the Concessionaire against loss from liability imposed by law upon, or assumed under contract by, the Concessionaire for damages on account of such bodily injury (including death), property damage, and personal injury.
- (7) The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, and blanket contractual liability.

(e) Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by Casitas. At the option of Casitas, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.

(f) Acceptability of Insurers. All of the insurance shall be provided on policy forms and through companies satisfactory to Casitas. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII or equivalent or as otherwise approved by Casitas.

(g) Workers' Compensation & Employer's Liability Insurance. By his/her signature hereunder, Concessionaire certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the event. The Concessionaire shall cover or insure under the applicable laws relating to workers' compensation insurance, all of the employees working on or about the event, in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Concessionaire shall provide employer's liability insurance in the amount of at least ONE MILLION DOLLARS (\$1,000,000) per accident for bodily injury and disease. In the event Workers' Compensation & Employer's Liability Insurance does not apply to Concessionaire, Concessionaire shall execute a California Workers' Compensation Law Certificate of Exemption.

(h) Concessionaire shall require all contractors and permittees operating within the Demised Premises to carry adequate liability and property damage insurance and liability for causes or actions resulting from the negligence of their employees, subcontractors, or agents. Said insurance shall be of sufficient amount to cover, as a minimum, the Concessionaire's liability under its governmental liability act and shall be consistent with the services, facilities, etc. provided and the potential for injury or damage to life and property. Casitas shall be named as an additional insured on all such insurance, and a certificate of insurance shall be provided to Casitas by the contractor and permittee to ensure that the insurance is in effect.

#### 16. **RESTORATION FOLLOWING DAMAGE OR DESTRUCTION OF THE DEMISED PREMISES**

If during the term of the Agreement the buildings or improvements or such fixtures or equipment, on, below, above or appurtenant to the Demised Premises at the commencement of the term or thereafter erected, installed or placed thereon or therein shall be destroyed or damaged in whole or in part by fire or any other cause, except condemnation, and provided such destruction or damage is required to be covered by insurance, Concessionaire shall give the Casitas General Manager notice as soon as practicable thereof. Concessionaire shall immediately secure the area to prevent injury, vandalism and further damage to persons, improvements, and the contents thereof. Concessionaire shall promptly restore same to the condition existing immediately prior to such occurrence, or if not possible or feasible in view of the damage sustained and availability of funds with which to rebuild, terminate this Agreement.

(a) In the event any part of the Demised Premises, building or structure essential to the operation of the Concession facility is totally or partially destroyed or damaged by any cause not resulting in fault or negligence of Concessionaire or Casitas and which is beyond the control of Concessionaire and/or Casitas, rendering the Demised Premises totally or partially inaccessible or unusable, Concessionaire may at its option terminate this Agreement upon written notice to Casitas.

(b) Should Concessionaire elect not to terminate this Agreement, Concessionaire shall within seven (7) days from the date of the damage or destruction, commence full repair at Concessionaire's cost and continue the performance of this Agreement in good faith to completion. In any event, the Demised Premises shall remain the property of Casitas. Casitas shall be under no obligation to make any repairs or reconstruct any buildings or structures.

#### 17. **NON-ASSIGNMENT**

During the term of this Agreement, the responsibilities of the Concessionaire as described herein shall not be assigned to others without prior written approval of Casitas Board of Directors.

**18. THIRD PARTY CONTRACTS AND PERMITS**

Concessionaire may not enter into, or issue and administer, third party permits or concession contracts to persons or associations for the purpose of selling or soliciting services, goods, and facilities for the use of the visiting public consistent with the intent and conditions of this Agreement, without prior written approval of Casitas. Written approval shall be by amendment to this Agreement.

**19. IMPROVEMENTS, EQUIPMENT AND INVENTORY**

(a) Prior Written Approval. Construction of temporary and seasonal structures or improvements within the Demised Premises or removal of the same by the Concessionaire shall only be done with the prior approval of Casitas.

(b) Concessionaire shall not make any structure replacements or improvements on the Demised Premises without the prior written approval of Casitas of all plans, specifications and drawings. Approval may be withheld if the proposed alteration, addition, or improvement is not within the theme or character of the LCRA or if not approved by Reclamation, exceeds the express or implied scope of Concessionaire's services under this Agreement, sacrifices the public health, safety, or welfare, or for any other reason infringes on Casitas' operation of the LCRA. The Concessionaire shall provide to Casitas an initial request for consideration by Casitas and the USBR. Said request may include conceptual sketches and drawings.

(c) Cost and Expense. In the event that Casitas consents to Concessionaire making any alteration, addition, or improvement to the structures on the Demised Premises, Concessionaire agrees that the same shall be made at Concessionaire's sole cost and expense.

(d) Practices and Procedures. In erecting and placing the Snack Bar on the Demised Premises, Concessionaire agrees to comply with all Federal, State, and local building and safety codes. Concessionaire agrees that Casitas shall have the right to access to the premises during the erection and placement of same for the purposes of Casitas' own inspection of the construction work. This inspection is not in service to the Concessionaire or a substitute for Concessionaire's inspection or control of the work. The Concessionaire shall provide to Casitas the names and phone numbers of the Concessionaire's representative and a listing of all authorized contractors for the work. The access to and use of the LCRA by the contractors and Concessionaire's representatives shall be in accordance with all applicable rules, regulations, and ordinances of the LCRA.

(e) Insurance and Bonds. If applicable, Concessionaire shall be responsible for providing insurance coverage for the construction in an amount not less than that specified in Paragraph 15 hereof.

**20. REVIEW OF ADMINISTRATION, OPERATION, MAINTENANCE AND DEVELOPMENT**

(a) The parties hereto shall meet prior to an upcoming season, or more often if requested by either party, to inspect the Demised Premises and Snack Bar and review the administration, operation, maintenance and requested development of the Concession. The purpose of this inspection and review is to ensure that administration, operation, maintenance and development procedures are adequate; to identify and correct deficiencies and problems; and to ensure the administration of the Concession is in accordance with the intended purposes and in compliance with Casitas Ordinances. Deficiencies and problems shall be corrected in a timely manner by the Concessionaire.

(b) The USBR may conduct an annual inspection of Casitas and Concession operations and will provide in writing necessary corrective action and time line for compliance.

**21. EXAMINATION OF RECORDS**

(a) Casitas, a public entity, requires that, at any time, the Concessionaire produce for examination any pertinent books, documents, papers, and financial records of the Concessionaire and/or the Concessionaire's contractors, permittees involving transactions related to this Agreement within the Public Records Act parameters.

(b) Casitas may, at any time, request an independent audit of the Concessionaire's financial activities for the LCRA. Such independent audit shall be performed at the cost of Casitas. Any discrepancies found during such audits shall be corrected within a reasonable amount of time, as determined by Casitas, by the responsible party.

## 22. NOTICE TO CURE/DISPUTE RESOLUTION

(a) Non-Compliance. Notification of non-compliance with the terms and conditions of this Agreement shall be in writing, giving a period of time in which the non-compliance shall be corrected. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time shall be grounds for termination of all or part of this Agreement or temporary suspension of operation after notice in writing of such intent.

(b) Dispute Resolution. In the event of any dispute or controversy arising out of or relating to this Agreement, the parties hereto agree to exercise their best efforts to resolve the dispute as soon as possible as outlined in Exhibit D.

(c) The inability of Casitas' and Concessionaire's designated representatives to mutually agree on a proposed action within thirty (30) calendar days, or longer period as may be agreed to by the parties hereto, may result in termination of this Agreement by either party.

## 23. TERMINATION

This Agreement shall terminate and all rights and obligations of the parties under this Agreement will cease under any one of the following conditions:

(a) Upon expiration of the term of this Agreement.

(b) For cause, including, but not limited to, violations of Casitas Ordinance entitled "An Ordinance of Casitas Municipal Water District Establishing Rules and Regulations for the Public Use of the Lake Casitas Recreation Area", failure to pay fees, violation of health and safety regulations and violation of Federal, State and local regulations as applicable, upon receipt of a written notice of termination from Casitas.

(c) Without cause, upon receipt of written notice of termination from either party. This termination notice must be received at least one (1) year prior to proposed early termination date.

(d) At any time upon written notice to Concessionaire that Casitas has received a notice of termination from the USBR.

(e) In the case of termination for cause, Concessionaire must completely vacate the Demised Premises within thirty (30) calendar days of written notice of determination.

## 24. CANCELLATION UPON DEFAULT

(a) Notice to Concessionaire. Upon the occurrence of any one or more of the events of default hereinafter described, this Agreement shall be subject to cancellation. As a condition precedent thereto, the Casitas General Manager shall give Concessionaire ten (10) days notice by registered, certified mail, or hand delivery of the date set for cancellation thereof; the grounds therefore; and that an opportunity to be heard thereon before the Board of Directors will be afforded on or before said date, if request is made therefor.

(b) Possession. Upon cancellation Casitas shall have the right to take possession of the Concession premises, including all improvements, equipment, and inventory located thereon, and use for the purpose of satisfying and/or mitigating all damages arising from a breach of this Agreement.

(c) Notice to Lenders. The Casitas General Manager shall send a copy of any intended cancellation of this Agreement to any Lender whose security would be affected thereby provided that such Lender shall have previously registered with the Casitas General Manager by written notice specifying the name and address of said Lender; and upon Lender's request for postponement, extend the date set for cancellation by such time as the Casitas General Manager finds reasonable to correct the grounds for cancellation or to provide a new Concessionaire

under a power of sale or foreclosure contained in the hypothecation or mortgage. Any new concessionaire shall be responsible for correcting the original grounds for cancellation within a time set by the Casitas General Manager.

(d) Events of default shall be:

(e) The abandonment, vacation or discontinuance of operations on the premises for more than forty-eight (48) consecutive hours.

(f) The failure of Concessionaire to punctually pay or make the payments required hereunder when due, where the delinquency continues beyond ten (10) days following written notice for payment thereof.

(g) The failure of Concessionaire to operate in the manner required by this Agreement, where such failure continues for more than ten (10) days after written notice from the Casitas General Manager to correct the condition therein specified.

(h) The failure to maintain the premises and the improvements constructed thereon in the state of repair required hereunder, and in a clean, sanitary, safe and satisfactory condition, whether such failure continues for more than ten (10) days after written notice from the Casitas General Manager to correct the condition.

(i) The failure of Concessionaire to keep, perform and observe all other promises, covenants, conditions and agreements set forth in this Agreement, where such failure continues for more than thirty (30) days after written notice from the Casitas General Manager for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and Concessionaire shall have commenced to perform whatever may be required to cure the particular default within ten (10) days after such notice and continues such performance diligently, said time limit may be waived in the manner and to the extent allowed by the Casitas General Manager.

(j) The Casitas General Manager determines that the Concessionaire is insolvent. Concessionaire shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether it has committed an act of bankruptcy or not, and whether insolvent within the meaning of Federal Bankruptcy Law or not.

(k) The filing of a voluntary petition in bankruptcy by Concessionaire; the adjudication of Concessionaire as a bankrupt; the appointment of any receiver of Concessionaire's assets; the making of a general assignment for the benefit of creditors, a petition or answer seeking an arrangement for the reorganization of Concessionaire under any Federal Reorganization Act, including petitions or answers under Chapter XI of the Bankruptcy Act; the occurrence of any act other than under the federal bankruptcy laws which operates to deprive Concessionaire permanently of the rights, powers and privileges necessary for the proper conduct and operation of the Concession including the levy of any attachment or execution which substantially interferes with Concessionaire's operations under this Agreement and which attachment or execution is not vacated, dismissed, stayed or set aside within a period of sixty (60) days.

(l) Determination by the Casitas General Manager, the California Fair Employment and Housing Commission, or the Federal Equal Employment Opportunity Commission of discrimination having been practiced by Concessionaire in violation of state and/or federal laws thereon.

(m) The execution by Concessionaire of an assignment for the benefit of creditors.

(n) Transfer of the majority controlling interest of Concessionaire to persons other than those who are in control at the time of the execution of this Agreement without approval thereof by the Casitas General Manager.

(o) Failure of Concessionaire to maintain any current licenses or permits required by any local, state or federal agencies necessary for the conduct of Concessionaire's business.

(p) Waiver. Failure or delay of Casitas to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of Casitas to declare one breach or default does not act as a waiver of Casitas' right to declare another breach or default.

(q) Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to Casitas.

## 25. RIGHT OF ENTRY

(a) General. Any officers and/or authorized employees of Casitas may enter upon the Demised Premises any and all reasonable times for the purpose of determining whether or not Concessionaire is complying with the terms of this Agreement, or for any other purpose incidental to the rights of Casitas within the demised premises. No re-entry or taking of the premises by Casitas pursuant to this Agreement shall be construed as an election to terminate this Agreement, unless a written notice of such intention is given to Concessionaire or unless the termination thereof is decreed by a court of competent jurisdiction.

(b) Abandonment. In the event of an abandonment or discontinuance of operations for a period in excess of forty-eight (48) hours, Concessionaire hereby irrevocably appoints Casitas as an agent for continuing operation and authorizes Casitas to do any combination of the following: (1) Take possession of the premises, including all improvements, equipment and inventory thereon; (2) remove any and all persons or property on said premises and place any such property in storage for the account of and at the expense of Concessionaire; (3) sublicense the premises; and, (4) after payment of all expense of such sublicensing or apply all payments realized there from to the satisfaction and/or mitigation of all damages arising from Concessionaire's breach of this Agreement. Entry by Casitas upon the premises for the purpose of exercising the authority conferred under this provision shall not operate as a waiver of any other rights that Casitas may have in law or equity to remedy a breach of this Agreement.

## 26. INDEPENDENT CONTRACTOR

In performing the obligations hereunder, Concessionaire is engaged solely in the capacity of independent contractor, it being expressly understood that no relationship between the contracting parties hereto other than that of independent contractor has been or is intended to be created. The parties to this Agreement do not intend to create a partnership, joint venture, relationship of master and servant, or principal and agent. It is mutually understood and agreed that the relationship created between the parties to this Agreement is to be determined in accordance with the laws relating to owners and lessees of real property.

## 27. SEVERABILITY

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall not be affected thereby and shall remain in full force and effect.

## 28. NOTICE

Any notices concerning this Agreement may be given, and all notices required by this Agreement or concerning performance under this Agreement shall be given, in writing, and shall be personally delivered or mailed addressed as shown below, or such other address or addresses as may be designated by either of the parties, in writing: Any notice required to be given under the terms of this Agreement or any law applicable thereto may be placed in a sealed envelope with postage paid, return receipt requested, addressed to the person on whom it is to be served, and deposited in a post office, mailbox, sub-post office, substation or mail chute, or other like facility regularly maintained by the United States Postal Service.

Casitas: Casitas Municipal Water District, 11311 Santa Ana Road, Ventura, California, 93001

Concessionaire: Carlos Hernandez, 212 Del Norte Road, Ojai, California, 93023

## 29. BOARD REVIEW

The Board of Directors may review all decisions by the Casitas General Manager contained in this Agreement. A decision rendered by the Casitas General Manager is deemed final if it is not placed on the Board's agenda within sixty (60) days of being rendered by the Casitas General Manager. If the Board places a decision

rendered by the Casitas General Manager on the Board's agenda within said sixty (60) day period, the decision is not final until formally ratified by the Board.

**30. MERGER AND MODIFICATION**

This Agreement contains all the agreements of the Parties with respect to any matter covered or mentioned in this Agreement, and no prior agreements shall be effective for any purpose. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.

**31. ATTORNEYS FEES**

In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys fees, costs and expense.

**32. ASSIGNMENT**

Neither the Concessionaire nor CASITAS shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

**33. SUCCESSORS IN INTEREST**

Subject to Paragraph 28, the rights and obligation of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs, and assigns.

**34. DESIGNATED REPRESENTATIVES/NOTICES**

The parties hereto agree that the designated representatives for administration of this Agreement are as follows, or as may be further delegated in writing by the following:

Casitas – General Manager, Casitas Municipal Water District, 1055 Ventura Avenue, Oak View, California 93022.

Designated Representative – Park Services Manager, 11311 Santa Ana Road, Ventura California 93001.

Concessionaire – Carlos Hernandez, 212 Del Norte Road Ojai, CA 93023

Any written notice, demand, or request, as required or authorized by this Agreement, shall be properly given if delivered by hand, or by mail, postage prepaid, to the other party as above listed. Both parties hereto are responsible for notifying all affected parties of any subsequent change of address, organizational changes, responsibility adjustments, and other related changes, as they take place.



35. **AGREEMENT DRAFTING CONSIDERATIONS**

The parties hereto agree and acknowledge that this Agreement has been drafted after full arms-length negotiations, and that the usual rule of contractual construction that all ambiguities shall be construed against the drafting party shall not apply to the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the first date written above.

**CASITAS MUNICIPAL WATER DISTRICT**

By:   
\_\_\_\_\_  
President of the Board of Directors

**CONCESSIONAIRE**

By:   
\_\_\_\_\_  
Carlos Hernandez

Attest:

By:   
\_\_\_\_\_  
Secretary of the Board of Directors

**CASITAS MUNICIPAL WATER DISTRICT**



**CONCESSION AGREEMENT  
FOR THE OPERATION AND MANAGEMENT OF  
THE PARK STORE  
AT LAKE CASITAS RECREATION AREA**

Lake Casitas Recreation Area,  
11311 Santa Ana Road, California 93001  
(805)-649-2233

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**AGREEMENT FOR THE OPERATION AND MANAGEMENT  
OF THE PARK STORE CONCESSION AT  
LAKE CASITAS RECREATION AREA**

THIS AGREEMENT, made this 1st day of May, 2012, by and between **CASITAS MUNICIPAL WATER DISTRICT** (hereinafter referred to as "Casitas") and **LAKE CASITAS MARINA, INC. d/b/a CASITAS BOAT RENTALS** (hereinafter referred to as "Concessionaire").

**WITNESSETH:**

WHEREAS, the United States has constructed the Ventura River Project, including Casitas Dam and reservoir, pursuant to Act of Congress (Public Law 423, 84<sup>th</sup> Cong., 2d session) approved March 1, 1956, for irrigation, for furnishing water for municipal and domestic use, and for providing incidental recreation and fish and wildlife benefits: and

WHEREAS, the United States has contracted with Casitas pursuant to Contract No. 14-06-200-5257 "Contract between United States and Ventura River Municipal Water District Providing for the construction of a Storage and Conveyance System", dated March 7, 1956, for repayment of federal costs incurred in construction of the Ventura River Project, for operation and maintenance of Project Works, with the stipulation that the title Ventura River Project remains with the United States; and

WHEREAS, the U.S. Bureau of Reclamation (hereinafter referred to as "USBR") has developed a Final Resource Management Plan/Environmental Impact Statement for Lake Casitas dated February 2010 with a Record of Decision #10-111, copies of which are provided under separate cover; and

WHEREAS, Lake Casitas Recreation Area (hereinafter referred to as "LCRA") is the property of the United States Government managed by the USBR, operated by Casitas under Management Agreement Number 11-LC-20-0216, dated October 7, 2011, between the USBR and Casitas, a copy of which is provided under separate cover; and

WHEREAS, Casitas is authorized by said Management Agreement to issue and administer third party contracts for concessions and services for the purpose of providing appropriate and necessary services, goods, and facilities for the use of the visiting public consistent with said Management Agreement and in accordance with any current or future planning documents, and

WHEREAS, Casitas is authorized by the provision of Water Code Section 71,000 et seq. to enter into an agreement for concessions and services that are consistent with public recreational facilities appurtenant to facilities operated or contracted to be operated by Casitas; and

WHEREAS, Concessionaire acknowledges that Casitas, in its sole discretion, controls access to the LCRA, and that Concessionaire's business volume is limited to persons granted access to the LCRA by Casitas; and,

WHEREAS, Concessionaire acknowledges that Casitas imposes reasonable fees and charges on LCRA users, and that Concessionaire's business volume will likely be limited to those persons subject to those Casitas fees and charges; and,

WHEREAS, the words of this Agreement have been chosen specifically to support Casitas' directives and standards and to create a customer base, attract and serve the public and to operate current and future recreational facilities and ancillary services; and

WHEREAS, Concessionaire is willing to exercise the grant of such a concession in accordance with the terms and conditions prescribed; and

WHEREAS, the parties hereto desire to enter into an Agreement for the operation and administration of park store concession services; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, the parties hereto and each of them agree as follows:

1. **INCORPORATION BY REFERENCE**

All Schedules and Exhibits attached hereto are incorporated by reference herein.

2. **DEFINITIONS**

See Appendix 1 for definitions used in this Agreement and Appendix 2 for abbreviations and acronyms.

3. **INTERPRETATIONS**

(a) This Agreement shall be interpreted according to the rules that govern the interpretation of contracts, as prescribed in Part 2 of Division 3 of the California Civil Code, commencing with Section 1635.

(b) For jurisdictional purposes, this Agreement shall be deemed entered into and enforceable in Ventura, California.

(c) Any reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended, replaced, consolidated or re-enacted.

(d) A reference to a person includes firms, partnerships, corporations, limited liability company and other business organizations and their successors and permitted assignees or transferees.

(e) Headings are for convenience and reference only.

4. **GRANT OF CONCESSION**

In consideration of the Concessionaire's obligations contained in this Agreement, Casitas hereby authorizes and grants Concessionaire the non-exclusive use of the Demised Premises to operate and maintain a non-exclusive Park Store Concession limited to those commercial activities described herein. The Concessionaire hereby accepts such authorization and grant upon the terms and conditions of this Agreement. Nothing in this Agreement shall be construed by Concessionaire as preventing Casitas from constructing, operating or contracting for additional concession facilities of any type.

5. **DEMISED PREMISES**

The operation of the Concession shall be conducted on the real property described in Exhibit A attached hereto.

(a) Condition of Demised Premises "AS IS". Concessionaire accepts the Demised Premises in "As Is" condition, and further agrees to make no demands upon Casitas for any improvements or alterations to the Demised Premises, except as may otherwise be provided herein.

(b) No Exclusive Use. Under no circumstances will long-term, private, exclusive use be permitted within the Demised Premises. The Concessionaire is not authorized to permit or grant any visitor, person, employee, or organization exclusive rights to occupy or use the subject services or facilities or preclude use by the public. The Concession contract is issued on a **non exclusive** use basis.

(c) Use of Demised Premises. The Demised Premises shall be used only for said purposes, and such other purposes as are related thereto provided express approval is granted by the Casitas General Manager, and for no other purposes whatsoever.

(d) Relocation. Casitas shall have the option to relocate the Demised Premises to a different location in the LCRA ("New Demised Premises"). Casitas may exercise such option by giving Concessionaire written notice not less than ninety (90) days prior to the proposed effective date of relocation. If Casitas exercises its option to relocate the Demised Premises, Concessionaire shall relocate to the New Demised Premises at no cost or expense to Casitas, except as otherwise provided in subparagraph (e) and (f).

- (1) Casitas' Obligations. To the extent that the original Demised Premises includes structures, buildings, improvements, or fixtures owned by Casitas, then Casitas shall pay for improving the New Demised Premises so that they are substantially similar to that portion of the original Demised Premises owned by Casitas, but Casitas shall not bear any other costs or expenses incurred by Concessionaire in relocating from the original Demised Premises to the New Demised Premises including, but not limited to, salaries of Concessionaire staff for time allocated to such relocation, legal fees, or Concessionaire's loss of business revenue.
- (2) Concessionaire's Obligations. To the extent that the original Demised Premises includes structures, buildings, improvements, or fixtures owned by the Concessionaire, then the Concessionaire shall bear the full cost and expense of moving said structures, buildings, improvements, or fixtures from the original Demised Premises to the New Demised Premises. Should Concessionaire fail to remove said structures, buildings, improvements, or fixtures from the original Demised Premises pursuant to the ninety (90) day notice, then the same may be sold, removed, or demolished by Casitas, and Concessionaire shall reimburse Casitas for any cost or expense in connection therewith in excess of any consideration received by Casitas as a result of said sale, removal, or demolition.

(e) Ownership at Commencement of Term. Concessionaire agrees that all fixtures, equipment, and personal property located on the Demised Premises at the commencement of the term belong to Casitas, except those listed in Exhibit A-4 attached hereto.

## 6. INUNDATION OR DROUGHT

The water level of Lake Casitas is subject to change and fluctuation from natural causes, and/or the use of water of the reservoir for domestic water supply, diversion channels and other purposes. In the event that the Demised Premises are permanently inundated or in the event that drought or imminent threat of permanent inundation affects the Demised Premises such that the rights granted to Concessionaire hereunder can no longer be exercised, Concessionaire may, at no cost or expense to Casitas, relocate to an alternate site mutually agreed upon in writing by Casitas and Concessionaire, and this Agreement shall remain in effect for the remaining portion of its term. In the event of inundation or drought which precludes the exercise of the rights granted to Concessionaire hereunder, and the parties are unable to mutually agree upon an alternate site in the LCRA, this Agreement shall terminate.

## 7. TERM OF AGREEMENT

(a) The term of this Agreement shall be for ten (10) years from the date first written above, unless terminated sooner as provided in Paragraph 25 herein, but in no event will exceed the term of the Management Agreement Number 11-LC-20-02162011 between Casitas and the USBR hereinabove referred to which will expire on October 10, 2036 unless sooner terminated.

(b) There is no clear or inferred right of first refusal clause incorporated in this Agreement for subsequent agreements of similar nature.

(c) In the event Concessionaire holds over beyond the term herein provided, with the express written consent of Casitas, such holding over shall be from month-to-month only, subject to the terms and conditions of this Agreement and shall not be a renewal thereof.

(d) The Demised Premises shall be considered vacated after all areas, including storage and parking areas, are clear of all of Concessionaire's belongings, and keys and other property furnished for Concessionaire's use are returned to Casitas. Should Concessionaire hold over beyond the termination date or fail to vacate the Demised Premises on or before the termination date, Concessionaire shall be liable for additional rent and damages which may include damages due to Casitas loss of prospective new Concessionaires.

(e) The Concessionaire understands and agrees that the USBR will not carry forward agreements and contracts and this contract will simultaneously terminate should the Management Agreement between Casitas and the USBR expire or terminate.

## 8. PAYMENTS

(a) For the use granted herein, Concessionaire agrees to pay Casitas Percentage Rent in an amount equal to the following percentage of Concessionaire's "Gross Sales" excluding "Bait and Tackle" items as set forth in (b) below, accruing from the date of this agreement.

May 1, 2012 – April 30, 2015, ten percent (10%) of gross sales excluding alcohol sales

May 1, 2015 – April 30, 2019, eleven percent (11%) of gross sales excluding alcohol sales

May 1, 2019 – April 30, 2022, twelve percent (12%) of gross sales excluding alcohol sales.

(b) Percentage Rent in an amount equal to fourteen percent (14%) of Concessionaire's "Gross Sales" on the sale of "Bait & Tackle" items that are appropriate for fish species found in Lake Casitas and consistent with Casitas Ordinances and as defined in Appendix 1.

(c) Percentage Rent excludes sales of beer and wine (requiring a license issued by the California Department of Alcoholic Beverage Control) made from or upon the Demised Premises during each calendar month during the term hereof.

(d) Miscellaneous Charges for all services, equipment, and labor provided by Casitas for wastewater hauling or other services as set forth by Board adopted rates. Miscellaneous charges will be invoiced by Casitas to the Concessionaire and paid in a timely manner in accordance with Casitas requirements.

(e) Place and Date of Payment. Concessionaire shall make all required payments by check or draft issued and payable to the "Casitas Municipal Water District," and mailed to Lake Casitas Recreation Area, 11311 Santa Ana Road, Ventura, California 93001, or such other place designated in writing by Casitas. Concessionaire shall compute the Percentage Rent each calendar month during the term hereof and shall pay Percentage Rent and any Miscellaneous Charges to Casitas on or before fifteen (15) days following the end of each calendar month during the term hereof, together with a written statement signed and verified by Concessionaire to be true and correct, showing in accurate detail the amount of Concessionaire's Gross Sales for the preceding calendar month, together with remittance of any Percentage Rent due. In addition, Concessionaire shall furnish Casitas with an annual financial statement and a balance sheet prepared in accordance with Internal Revenue Service standard income tax basis of accounting. The financial statement shall be submitted within sixty (60) days of the close of an annual year.

(f) Late Charge. A late payment charge of two percent (2%) per month shall be added to any payments received after the last day of the calendar month in which payment is due. Casitas is not obligated to notify Concessionaire of accumulated late charges.

(g) Adjustments to Gross Sales. There shall be no deduction from gross receipts for any overhead or cost or expense of operations, such as, but without limitation, salaries, wages, costs of goods, interest, debt amortization, credit, collection costs, discounts from credit card operations, insurance and taxes. There shall be no deduction for bad debts based on past experience or transfers to a bad debt reserve. Subsequent collection of bad debts previously deducted as gross receipts shall be included in gross receipts at the time they are collected.

(h) Concessionaire is not guaranteed a profit.

## 9. ACCOUNTING

Concessionaire hereby agrees at all times during the term to use a point of sale computer system or other device to accurately record all sales and keep true, full and accurate books of account containing a complete statement of Concessionaire's Gross Sales in accordance with generally accepted accounting practices (showing all of its sales separate from its other concessions and/or stores). The electronic data processing and record keeping equipment shall contain such features as the Casitas General Manager may reasonably require for the purpose of assuring that an accurate record of the transaction is created and retained by the equipment to be use.

(a) Records. Concessionaire shall maintain accounting books and records including, but not limited to, daily sales records and journals, sales returns and allowance detail, cash receipts, accounts receivable, disbursement journals, bank statements, deposit slips, inventory records, purchase orders, receiving records, state sales and use tax returns and a complete general ledger.

(b) Storage. All accounting books and records maintained by Concessionaire shall be kept by Concessionaire for a period of no less than three (3) years after the close of each calendar year.

(c) Inspection. Concessionaire hereby grants to Casitas and its agents and accountants the right, during Concessionaire's normal business hours and upon reasonable notice, to inspect such books and records kept in connection with the business done or transacted in or upon the Demised Premises, for the purpose of verifying Concessionaire's Gross Sales. Casitas, for itself and for its agents and accountants, agrees to keep confidential all sales figures, audits and reports furnished by or obtained from Concessionaire, as between Casitas and its attorneys, lenders, financial partners, if any, accountants and other financial advisors.

(d) Audit. At any time and from time to time, Casitas may elect to perform an audit of Concessionaire's Gross Sales, provided such audit shall not unreasonably interfere with the operation of Concessionaire's business. Such audit shall be conducted by either Casitas or a certified public accountant to be designated by Casitas in its sole discretion. If any statement of Concessionaire's Gross Sales previously furnished by Concessionaire shall reflect less than ninety-seven percent (97%) of the amount of Concessionaire's Gross Sales as shown by such audit and additional Percentage Rent is payable by Concessionaire as a result of such understatement, or if such audit shows that Concessionaire has failed to maintain the books and records required herein so that Casitas is unable to verify the accuracy of any statement of Concessionaire's Gross Sales previously furnished by Concessionaire, then Concessionaire shall immediately pay to Casita all reasonable costs and expenses (including reasonable auditor and attorney fees) which may be incurred by Casitas in conducting such audit and collecting such underpayment, if any. In any event, Concessionaire shall promptly pay to Casitas all additional Percentage Rent shown by audit to be payable hereunder, together with interest at the maximum lawful rate from the date when said payment should have been made. If Concessionaire shall understate Gross Sales by more than three percent (3%) three (3) or more times during the Term, Concessionaire shall be deemed in default under Paragraph 26 of this Agreement and Casitas shall have all rights and remedies as are set forth in subparagraphs (a) through (q).



(e) Subcontractors. Concessionaire shall cause all of its subcontractors to comply with the accounting requirements set forth above to the extent those requirements are applicable, and all other applicable requirements of this Agreement.

10. OPERATIONS.

(a) General

- (1) Compliance. Concessionaire shall comply with all applicable Federal, State, and local laws, rules, regulations and procedures; and, where permits and/or licenses are required for the Concession and/or any refurbishment or construction authorized herein.
- (2) The parties to this Agreement will coordinate regarding any administration, operation, maintenance and development activities pursuant to this Agreement. It is of chief priority that any such activities do not affect any project water management, operation, and maintenance activities of Casitas, and, in the opinion of Casitas, will not interfere with Casitas' water retention and delivery operations in the Recreation Area.
- (3) Concessionaire shall have non-exclusive rights to operate the Park Store and is obligated to stock and sell goods and supplies that are needed, desired and appropriate in a recreational campground setting. Casitas reserves the right to deny specific goods.
- (4) Concessionaire shall maintain voice mail or other appropriate methods for Casitas to directly contact the Concessionaire. Concessionaire shall respond to any non emergency messages left by Casitas within a twenty-four (24)-hour time frame. Urgent or emergency issues will be responded to immediately by a person named on an up to date emergency contact list provided by Concessionaire.
- (5) Concessionaire warrants and agrees to fully comply with all laws, conditions and requirements contained in Exhibits B through E attached hereto and made a part hereof, including, but limited to, all laws regarding discrimination (Title VI of the Civil Rights Act of July 2, 1964 (78 Stat. 241), Americans with Disabilities, hiring, recruitment and employment of staff including, but not limited to, labor laws, workers compensation requirements, Immigration Reform and Control Act of 1986.
- (6) Concessionaire shall not enter into a sub-concession or any agreement to subcontract any service without the prior approval and written consent of Casitas. In the event that Concessionaire chooses, with Casitas' consent, to subcontract any particular service, this Concession Agreement shall be amended to provide for the proposed additional service(s).
- (7) The Concession is subject to the LCRA entrance requirements including, but not limited to, entrance fees, permits, inspections and quarantines, and restrictions as deemed necessary or otherwise approved by the Casitas Board of Directors.

(b) Concessionaire Staff

- (1) Facilities Manager. Concessionaire shall be the Facility Manager with whom Casitas may have direct access to on a daily basis. The Facility Manager shall be fully acquainted with the Concession operations, familiar with the terms and conditions prescribed therefor by this Agreement, and authorized to act in the day-to-day operation thereof.
- (2) Facilities Staff. The parties hereto will ensure that adequate personnel are available to accomplish the operation, administration and maintenance of the Demised Premises as agreed to herein. The Concessionaire is required to keep an updated list of all employees, service and delivery companies and contractors on file with Casitas at all

times. Access to the LCRA shall be at the sole discretion of Casitas for such employees, service and delivery companies and contractors. All employees must be eligible for employment under the state of California employment laws. Concessionaire and employees must represent the Concession in an appropriate and professional manner. Unprofessional or inappropriate behavior on the part of Concessionaire or his/her employees towards Casitas staff and/or customers will be investigated and may warrant removal of park privileges.

- (3) Tuberculosis Screen. Concessionaire shall not employ any person who cannot produce a certificate showing that within the last two (2) years the person has been examined and has been found to be free of communicable tuberculosis. Concessionaire staff shall be required to undergo the foregoing examination at least once every four (4) years. Any staff that has a documented positive skin test confirmed by X-ray shall be immediately referred to the County's Health Officer. "Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000), Division 2 of the California Business and Professions Code, or a notice from a public health agency or unit of the Tuberculosis Association, which indicated freedom from active tuberculosis.
- (4) Compliance; Employee Documentation; Indemnity. Concessionaire warrants that it fully complies with all applicable employment laws. Concessionaire further warrants that all its employees performing services hereunder meet the citizenship or alien status requirements contained in federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P.L. 99-603). Concessionaire shall obtain and retain all verification and other documentation of employment eligibility status required by federal statutes and regulations as they currently exist and as they may be hereafter amended.
- (5) Employee Conduct. The Casitas General Manager may at any time give Concessionaire written notice to the effect that the conduct or action of an employee of Concessionaire is, in the reasonable belief of the Casitas General Manager, detrimental to the interest of the public patronizing the Demised Premises or in violation of LCRA Ordinances. Concessionaire shall meet with the Casitas General Manager to consider the appropriate course of action with respect to such matter.

(c) Prices

- (1) Pricing Policy and Review. Concessionaire shall at all times maintain a complete list or schedule of the prices charged for all goods or services supplied to the public. Said prices shall be fair and reasonable based upon comparability with prices charged for similar goods and/or services in the Ventura and Santa Barbara County areas. In the event Casitas notifies Concessionaire that prices being charged are not fair and reasonable, Concessionaire shall have the right to confer with the Casitas General Manager and justify said prices. Following reasonable conference and consultation thereon, Concessionaire shall either make such price adjustments as may be ordered by the Casitas General Manager or appeal the implementation of such adjustments to the Casitas Board of Directors, whose decision thereon shall be final and conclusive. However, Concessionaire shall comply with the ordered price adjustment pending the appeal and final ruling thereon by Casitas' Board of Directors.
- (2) Complimentary Services and Reduced Rates. The Concessionaire shall require its employees to observe strict impartiality as to rates and services in all circumstances. The Concessionaire may, subject to the prior written approval of the General Manager, grant complimentary or reduced rates under such circumstances as are customary in businesses similar to that which will be conducted under this Concession Agreement. However, the General Manager reserves the right to review and modify the Concessionaire's complimentary or reduced rate policies.

(d) Authorized Goods and Services

- (1) Concessionaire is authorized non-exclusive rights to sell to the general public supplies such as canned and packaged food supplies, soft drinks, beer, wine, propane, ice, firewood, sporting goods and camping supplies, approved fishing tackle and bait in compliance with Casitas' Ordinances, personal products, souvenirs and clothing. The Park Store Concession shall be specifically excluded from selling fireworks, weapons and firearms including, but not limited to, knives, slingshot, bow and arrow, bowfishing equipment, guns and/or rifles of any type and any items which Casitas deems inappropriate or offensive. Any other goods and services desired to be provided by the Concessionaire beyond that listed above must be requested in writing by the Concessionaire and receive prior written approval by the Casitas General Manager.
- (2) The stock in the Park Store shall be ample in quantity and appropriate to meet the needs of the visiting public. All food, beverages, confectionary and other products intended for human consumption shall be of a high standard of quality, and pricing specified above.
- (3) Concessionaire may obtain an Off-Sale Beer and Wine License for the sale of beer and wine from the California Department of Alcoholic Beverage Control. Concessionaire shall be fully responsible for the sale of beer and wine beverages and tobacco in accordance with State and Federal law, including, but not limited to, licensing, sales restrictions and pricing. If at any time, in the sole opinion of the Casitas Board of Directors, the sale by Concessionaire of beer, wine and/or tobacco materially affects, causes or adds to the problems of keeping the LRCA free of litter and of maintaining order among the general public using the LCRA, the right granted herein may be terminated at any time upon thirty (30) days written notice from Casitas to Concessionaire.
- (4) The amount of retail floor space used for alcoholic merchandise, display, promotion and products will not exceed ten percent (10%) of the total floor space inside the Park Store at any given time.
- (5) All goods and services sold by Concessionaire shall conform to Federal, State and local laws, ordinances and regulations. Following receipt of written notification that the provision of such goods or services is harmful to the public welfare, Concessionaire shall immediately remove or withdraw from sale any goods or services which may be found objectionable to the Casitas General Manager.

(e) Hours of Operation

Concessionaire shall establish regular hours of operation that will accommodate the visiting public demands. Upon commencement of the Concessionaire Agreement and by February 1 of each succeeding year, the Concessionaire shall submit to Casitas for review, change and approval a written seasonal schedule of hours (opening and closing times) for the operation. Any change to the schedule must be submitted to, and approved by, Casitas prior the implementation of the schedule change.

(f) Security

- (1) Concessionaire acknowledges the need for securing the Demised Premises and shall provide at its sole expense any legal devices, installation, or equipment designated for the purpose of protecting the Demised Premises from unlawful conduct including, but not limited to, theft, burglary or vandalism, provided written approval for said security measures is first obtained from the Casitas General Manager.
- (2) Concessionaire employed security personnel have no authority to take law enforcement action or carry firearms. Concessionaire shall comply with all law enforcement protocol

within the LCRA pursuant to Casitas' Ordinances. Concessionaire will work with Casitas to ensure law and order is maintained and preserved and protect recreation facilities, resources and lands from unauthorized use related to any and all concession activities pursuant to this Agreement. Concessionaire may bear the cost and administration of additional law enforcement services required or specifically requested through local law enforcement such as the County of Ventura. In the event an incident arises where more than one law enforcement agency responds, the federal law enforcement agency shall have precedence over State and County law enforcement agencies and the Concessionaire may bear any cost billed in association with any services requested by Concessionaire.

(g) Safety

Concessionaire shall use its best efforts to correct any unsafe condition of the premises, as well as any unsafe practices occurring thereon. Concessionaire shall use its best efforts in requesting local paramedical assistance for any member of the public who is in need thereof, because of illness or injury occurring on the premises. Concessionaire shall cooperate fully with Casitas in the investigation of any accidental injury or death occurring on the premises, including a prompt report thereof to the Casitas General Manager. Concessionaire shall promptly make safety improvements as needed and as requested by Concessionaire's insurance carrier, Casitas' General Manager or the Board.

(h) Advertising and Promotion

Concessionaire is responsible for the advertising and promotion of his/her own business.

- (1) Signs. Concessionaire shall not post advertising signs or other materials upon the Demised Premises without prior written approval from Casitas. Concessionaire acknowledges that Casitas greatly limits such approval in order to maintain the natural setting of the LCRA. Outdoor signs or other forms of advertising (e.g. web, newspaper, etc) must not be displayed on LCRA property or provided to, or allowed to be accessed by, the public without the prior review and written approval of Casitas. All signs will be professionally made. All signage must include an approved USBR logo or name and Casitas Municipal Water District and/or Lake Casitas Recreation Area logo or name.
- (2) Concessionaire shall not promote or sponsor private or public events requiring the use of any other areas of the LCRA, other than the Demised Premises or as approved by Casitas. However, this provision shall not prohibit Concessionaire from generally advertising or encouraging public use of the LCRA in a manner that complies with the provisions of this Agreement. Concessionaire shall not promulgate, nor cause to be distributed, any advertising or promotional materials objectionable to Casitas. Casitas shall require all advertising in newspapers, magazines and trade journals, radio and television commercials and other advertising be approved in advance.
- (3) Where possible, Concessionaire agrees that any advertising or promotional materials promulgated by Concessionaire, which refers to the "Lake Casitas Recreation Area," or any derivative thereof, shall also include the phrase "Casitas Municipal Water District" unless specifically approved otherwise by the Casitas General Manager.

(i) Interruptions of Business

There is the possibility of interruptions of this Concession Agreement. These interruptions could be due to contamination of Lake Casitas, impacts on the Concession Agreement due to construction and maintenance projects, insurance changes, changes in lake level and any other similar business interruptions. Should these interruptions require Casitas to place additional restrictions upon the Concessionaire, Casitas shall not be liable for any expense or loss of business due to Concessionaire's complying with those additional restrictions, as long as the restrictions were consistently applied to other like-users of the LCRA. However, since insurance changes can be mandated by Casitas' insurer, Concessionaire shall not hold Casitas liable for

expense or loss of business due to Concessionaire's complying with additional restrictions due to insurance changes, even where those restrictions were not consistently applied to like-users of the LCRA.

(k) Utilities

Concessionaire shall contract directly to provide and pay for any necessary utilities serving the Demised Premises, including the installation of necessary metering devices. Such necessary utilities include, but are not limited to, water, telephone, electricity, trash collection and propane services. The telephone number may be placed in the name of the Concessionaire. Concessionaire waives any all claims against Casitas for compensation for loss or damage caused by a defect, deficiency or impairment of any utility system, water system, water supply system, drainage system, waste system, heating or gas system, electrical apparatus or wires serving the premises. Concessionaire shall pay for any new connections to the existing electrical services.

(l) Sanitation

No offensive matter, or refuse, or substance constituting any unnecessary, unreasonable or unlawful fire hazard, or material detrimental to the public health, shall be permitted to accumulate or remain on the Demised Premises and within a distance of fifty (50) feet thereof. Concessionaire shall contract and pay fees to collect and remove trash and debris to an area approved disposal site or landfill that is not located within the watershed of Lake Casitas. Refuse shall be removed as needed, but minimally once per week. Concessionaire shall furnish all equipment and materials necessary for refuse collection, including trash receptacles of the size, type, color and number required by the Casitas.

- (1) Trash. Concessionaire shall support USBR and Casitas efforts to protect the resources of Lake Casitas. Concessionaire shall provide an effective system for the collection and disposal of garbage and trash within its area of responsibility. Trash cans shall be conveniently located for use by customers. Concessionaire shall promote recycling and make it convenient for public use.
- (2) Debris. Concessionaire shall keep assigned areas free of foul odors, litter, debris, garbage, personal items, stored or abandoned equipment, working or not, vehicles, furniture, and fixtures. Major sanitation facilities and large trash receptacles shall be screened from public view by foliage or constructed screening and placed as far from heavy public use areas as is reasonably possible. Concessionaire shall engage and pay for the services of an independent contractor for the removal of the trash and garbage that is generated by its facilities. Casitas shall empty trash containers located in the outdoor areas adjacent to the Demised Premises. Concessionaire shall empty containers located adjacent to the Demised Premises.
- (3) Concessionaire shall make every effort to reduce and recycle solid waste generated as a result of the operation of the Park Store Concession which may include making arrangements with a local waste hauler to pick up and dispose of waste and recyclable material.
- (4) Sewage Disposal. Casitas presently collects and removes sewage that is discharged by the Concession into Casitas' holding tanks. The Concessionaire shall be responsible for clearing any obstruction in the sewer lateral which serves its structures, the maintenance of grease traps and the cleanup of any and all sewage spills that may occur in his/her respective areas of responsibility.

(m) Incident Reporting

Concessionaire shall investigate or cooperate in the investigation by the agency having jurisdiction, all incidents involving death, serious injury or property damage, or other incidents of a serious nature within the Demised Premises. Concessionaire shall make an initial verbal/phone message report on such incidents to Casitas' designated representative within two (2) hours of knowledge of the incident. Under most

circumstances, or when requested by Casitas, Concessionaire shall submit a written incident report via hard copy or e-mail to Casitas' designated representative within two (2) calendar days of the verbal notice.

(n) Hazardous Materials

- (1) Concessionaire may not allow contamination or pollution of the LCRA, waters or facilities and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include, but are not limited to, hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.
- (2) Concessionaire shall comply with all applicable Federal, State, and local laws and regulations, and Casitas' Ordinances, policies, directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in the LCRA, water or facilities.

(o) Pest And Weed Control

Concessionaire shall not permit the use of any pesticides/chemicals on the Demised Premises without prior written approval by Casitas. All pesticides used shall be in accordance with the current registration, label direction, or other directives regulating their use and with applicable Casitas Integrated Pest Management Plan and USBR policy and directives and standards. Applicators shall meet applicable State training and licensing requirements. Records maintenance shall be in accordance with State requirements. Records maintenance and report submission shall be in accordance with State requirements and a copy of the report submission shall be furnished to Casitas at the same time.

(p) Protection Of Natural And Cultural Resources

- (1) Concessionaire will implement best management practices necessary to minimize sedimentation and erosion; protect land and water resources; prevent and suppress fire; protect against introduction and spreading of noxious weeds and other pests detrimental to natural values, agriculture or public health and safety; and will cooperate in soil and water conservation, and fish and wildlife enhancement practices.
- (2) Concessionaire will comply with the National Environmental Policy Act (NEPA), including the Endangered Species Act (ESA), the National Historic Preservation Act (NHPA) and other related laws as may be enacted or amended.

## 11. MAINTENANCE

(a) **Casitas' Duties.** Casitas shall repair and maintain the areas surrounding the Demised Premises at Casitas' sole discretion. Casitas shall maintain the structural parts of the building owned by Casitas that is located within the Demised Premises. The structural parts include the foundation (excluding flooring), exterior walls (excluding glass windows and doors), the structural and waterproofing membrane portions of the roof (excluding skylights), and public areas adjacent to the Demised Premises. There shall be no abatement of rent, and no liability of Casitas, by reason of any injury to or interference with Concessionaire's business arising from the making of any repairs, alterations, or improvements to any portion of the Demised Premises. Casitas shall have absolutely no other responsibility to repair, maintain or replace any portion of the Demised Premises at any time. The Concessionaire waives the right to make repairs at Casitas' expense under California Civil Code Section 1942, or under any other law, statute or ordinance now or hereafter in effect.

(b) **Concessionaire's Duties.** Concessionaire shall maintain the Concession equipment and premises in good repair and condition. Concessionaire shall perform and pay for all repairs and replacements in compliance with applicable law. All maintenance and repairs shall be commenced within thirty (30) days of the need thereof and diligently completed. Maintenance includes, but is not limited to:

- (1) General. Concessionaire shall at its sole cost (i) maintain, repair and replace, all in first class condition, all portions of the Demised Premises (except those portions to be maintained by Casitas as expressly set forth above), (ii) arrange for removal of trash from the Demised Premises, (iii) furnish reasonable janitorial services within the Demised Premises, (iv) maintain and repair any plate-glass windows appurtenant to the Demised Premises and all interior and exterior doors, including roll-up doors, (v) maintain, repair, replace the heating, air-conditioning, and ventilation system ("HVAC") exclusively serving the Demised Premises including establishment of a maintenance contract for the periodic inspection, maintenance, and replacement, as necessary, of the HVAC system, (vi) maintain a pest and termite control service agreement with respect to the Demised Premises, (vii) maintain and repair all telephone lines, electrical fixtures, wiring, panels, transformers, conduits, lighting fixtures, lamps, and tubes that are exclusively serving the Demised Premises, and (viii) maintain, repair, and/or replace any water heating systems, sewer lines, and plumbing lines and fixtures that are exclusively serving the Demised Premises.
- (2) Annual Maintenance Plan. Concessionaire will prepare and submit an annual maintenance plan on January 1 of each year for approval by Casitas.
- (3) Graffiti Eradication and Control of Graffiti from the Outside Surfaces of said Demised Premises. Concessionaire shall immediately remove graffiti at all times during the days and hours of operation when observed. In addition, within twenty-four (24) hours of notification from Casitas, Concessionaire shall remove graffiti from said Concession premises. Concessionaire shall use materials as provided by Concessionaire; however, Concessionaire is not required to sandblast walls or walkways.
- (4) Emergency Repair. Emergency repairs to Concession equipment and premises shall be made immediately so as to avoid any hazard to public health and safety.
- (5) Damage from Criminal Conduct. Concessionaire shall be responsible for the repair or replacement of any property located on the Demised Premises damaged by criminal conduct.
- (6) Equipment Repair or Replacement. Repair and replacement of all equipment necessary to conduct Concession operations shall be made at Concessionaire's sole expense including the items listed on Exhibit A-5 attached hereto. Any replacement equipment purchased by Concessionaire as Trade Fixtures shall be the property and responsibility for maintenance of the Concessionaire. Concessionaire shall dispose of replaced property in an approved manner in accordance Federal, State and local laws and regulations.
- (7) Concessionaire's Damage Liability. The Concessionaire is additionally liable for any damage to the Demised Premises resulting from the acts or omissions of the Concessionaire, including, without limitation, any damage relating to a roof penetration caused by the Concessionaire or Concessionaire's invitees and any actual or consequential damage to the Demised Premises and/or building arising from Concessionaire's use of the Demised Premises, Concessionaire's personal property, or systems or equipment serving the Demised Premises that are the responsibility of the Concessionaire to maintain, repair, replace.
- (8) Default of Maintenance Obligations. In the event Concessionaire defaults in the exercise of its maintenance obligations assumed herein, Casitas reserves the right to cure said default and seek reimbursement from the Concessionaire for all costs incurred plus a supervisory fee in the amount of ten percent (10%) of the cost thereof. Any reimbursement demand by Casitas under this provision shall be satisfied by Concessionaire within fifteen (15) days.

## 12. FEES AND TAXES

(a) Public LCRA entrance and use fees will be set in accordance with the fee schedule established by Casitas and Casitas shall have the right to collect as income, receipts derived from recreation related permits and contracts which it issues and administers for activities within the LCRA, as authorized in the California Water Code Section 71660 et. Seq.,

(b) The use or occupancy of the Demised Premises by Concessionaire constitutes a property interest which will be subject to possessory interest taxes. Concessionaire will be liable for the payment of such possessory interest taxes and any other taxes which may be levied on the property pursuant to the applicable taxation code. Concessionaire shall pay the applicable County or State agency, before delinquent, all taxes and assessments including said possessory interest tax levied against Concessionaire by reason of use and occupancy of the Demised Premises.

## 13. RIGHTS OF CASITAS AND USBR

(a) The USBR retains the primary jurisdiction over the Ventura River Project and the LCRA. The USBR can give written notice to Casitas if the USBR determines that changes in land use for USBR purposes within the LCRA are necessary. Casitas will give written notice to Concessionaire if any land use changes required by the USBR are necessary and will affect the Concessionaire.

(b) Casitas or the USBR may close the LCRA, or any portion thereof, including the Demised Premises, to public use whenever it is determined such restriction is necessary in the interest of water delivery project operation, public safety or national security. Casitas' designated representative will give written notice to Concessionaire of any such closure. This notice will be given as soon as practicable after a determination for closure is made and will include the date when the closure becomes effective. Concessionaire will enforce such closure and such enforcement will include coordination and cooperation with Casitas.

(c) The USBR and Casitas reserves the right to establish, grant or utilize additional easements or rights of way over, under, along and across the Demised Premises for utilities and/or public access to the LCRA provided Casitas shall exercise such rights in a manner as will avoid any substantial interference with the operations to be conducted hereunder. Concessionaire shall not claim any damages, loss of business, impact costs or other costs of any kind due to such an easement.

## 14. INDEMNIFICATION

To the fullest extent permitted by law, Concessionaire shall indemnify and hold harmless and defend Casitas its directors, employees, or authorized volunteers, and each of them from and against the following:

(a) Any and all claims, demands, causes of action, damages, costs, expenses, losses or liabilities, in law or in equity, of every kind and nature whatsoever, for, but not limited to, injury to or death of any person including Casitas and/or Concessionaire, or any directors, officers, employees, or authorized volunteers of Casitas or Concessionaire, and damages to or destruction of property of any person, including but not limited to, Casitas and/or Concessionaire and their directors, officers, employees, or authorized volunteers, arising out of or in any manner directly or indirectly connected with this Agreement, however caused, regardless of any negligence of Casitas or its directors, officers, employees, or authorized volunteers.

(b) Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Concessionaire.

(c) Any and all losses, expenses, damages (including damages to the work itself), and other costs, including all costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of



Concessionaire to faithfully perform all of its obligations under the contract. Such costs, expenses, and damages shall include all costs incurred by the indemnified parties in any lawsuits to which they are a party.

(d) Concessionaire shall defend, at Concessionaire's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against Casitas or Casitas' directors, officers, employees, or authorized volunteers.

(e) Concessionaire shall pay and satisfy any judgment, award or decree that may be rendered against Casitas or its directors, officers, employees, or authorized volunteers, in any such suit, action or other legal proceeding.

(f) Concessionaire shall reimburse Casitas and its directors, officers, employees, or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

(g) Concessionaire agrees to carry insurance for this purpose as required by this Agreement. Concessionaire's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Casitas, or its directors, officers, employees, or authorized volunteers

(h) Concessionaire agrees to indemnify and hold harmless Casitas Municipal Water District and the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising from the Concessionaire's activities under this Agreement.

(i) The parties hereto shall each be responsible and liable only for the negligent acts or omissions of their respective employees or assigns to the extent provided by law. However, nothing in this Agreement shall be construed to be an admission of fault or liability, and nothing shall limit the defenses and immunities legally available to each party against each other and third parties.

## 15. **INSURANCE**

Without limiting Concessionaire's indemnification of Casitas, Concessionaire shall provide and maintain at its own expense during the term of this Agreement the program(s) of insurance covering its operations listed herein. Such insurance shall be provided by insurer(s) satisfactory to the Casitas General Manager and evidence of such programs satisfactory to Casitas shall be delivered to the Casitas General Manager on or before the effective date of this Agreement. Such evidence shall specifically identify this Agreement and shall contain express conditions that Casitas is to be given written notice of at least thirty (30) days in advance of any modification or termination of any program of insurance. Further, all such insurance with the exception of Workers' Compensation insurance, shall be primary to and not contributing with any other insurance maintained by Casitas and shall name Casitas and the United States Government additional insurees. If CASITAS insurance requirements change, the Concessionaire will be required to make changes in their insurance accordingly at Concessionaire's sole expense.

(a) **Certificate of Insurance.** Prior to execution of the Agreement, Concessionaire shall file with Casitas a Certificate of Insurance (Acord Form 25-S or equivalent) signed by the insurer's representative. Such evidence shall include an original copy of the additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to meet all insurance requirements under this Agreement.

(b) **Proof of Insurance.** The Concessionaire shall, upon demand of Casitas, deliver to Casitas such policy or policies of insurance and the receipts for payment of premiums thereon as are required under this Agreement. In the event evidence of such insurance coverage is not provided to Casitas within thirty (30) days prior to the commencement of this Agreement, Casitas shall, at its sole option, obtain such insurance coverage and charge Concessionaire the cost thereof plus any administrative costs involved in obtaining said insurance. Failure to provide required insurance coverage shall result in the loss of the use of the facility. Concessionaire shall provide increased limits of insurance if required of Casitas by Casitas' insurer at no cost or liability to Casitas.

(c) During the entire term and any extension of this Agreement, Concessionaire shall maintain Commercial General Liability Insurance coverage at least as broad as the Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001) with limits no less than ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury property damage and personal injury. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to Casitas) or the general aggregate limit shall be twice the required occurrence limit.

(d) During the course of this Agreement Concessionaire shall, if alcoholic beverages are sold, maintain Liquor Liability Insurance coverage at least as broad as the Insurance Services Office Liquor Liability Coverage (Occurrence Form CG 0033) with limits no less than ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury and property damage. If a form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to the District) or the general aggregate limit shall be twice the required occurrence limit.

(e) Required Provisions. The general liability and liquor liability (if any) policies are to contain, or be endorsed to contain the following provisions:

- (1) The United States of America (Bureau of Reclamation), Casitas, its directors, officers, employees, or authorized volunteers shall be named as additional insured (via ISO endorsement CG 2026 or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of the Concessionaire; products and completed operations of the Concessionaire; premises occupied or used by the Concessionaire. The coverage shall contain no special limitations on the scope of protection afforded to the Casitas, its directors, officers, employees, or authorized volunteers.
- (2) For any claims related to this event, the Concessionaire's insurance shall state that coverage is primary as respects the United States of America (Bureau of Reclamation), Casitas, its directors, officers, employees, or authorized volunteers, and any insurance, self insurance, or other coverage obtained or maintained by Casitas, its directors, officers, employees, or authorized volunteers shall be in excess of said primary coverage and not contributing.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the United States of America (Bureau of Reclamation), Casitas, its directors, officers, employees, or authorized volunteers.
- (4) The Concessionaire's insurance shall apply separately to the insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. Mail has been given to Casitas.
- (6) Such liability insurance shall indemnify the Concessionaire against loss from liability imposed by law upon, or assumed under contract by, the Concessionaire for damages on account of such bodily injury (including death), property damage, and personal injury.
- (7) The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, and blanket contractual liability.

(f) Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by Casitas. At the option of Casitas, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.

(g) Acceptability of Insurers. All of the insurance shall be provided on policy forms and through companies satisfactory to Casitas. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A-VII or equivalent or as otherwise approved by Casitas.

(h) Workers' Compensation & Employer's Liability Insurance. By his/her signature hereunder, Concessionaire certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the event. The Concessionaire shall cover or insure under the applicable laws relating to workers' compensation insurance, all of the employees working on or about the event, in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Concessionaire shall provide employer's liability insurance in the amount of at least ONE MILLION DOLLARS (\$1,000,000) per accident for bodily injury and disease. In the event Workers' Compensation & Employer's Liability Insurance does not apply to Concessionaire, Concessionaire shall execute a California Workers' Compensation Law Certificate of Exemption.

(i) Concessionaire shall require all contractors and permittees operating within the Demised Premises to carry adequate liability and property damage insurance and liability for causes or actions resulting from the negligence of their employees, subcontractors, or agents. Said insurance shall be of sufficient amount to cover, as a minimum, the Concessionaire's liability under its governmental liability act and shall be consistent with the services, facilities, etc. provided and the potential for injury or damage to life and property. Casitas shall be named as an additional insured on all such insurance, and a certificate of insurance shall be provided to Casitas by the contractor and permittee to ensure that the insurance is in effect.

#### 16. RESTORATION FOLLOWING DAMAGE OR DESTRUCTION OF THE DEMISED PREMISES

If during the term of the Agreement the buildings or improvements or such fixtures or equipment, on, below, above or appurtenant to the Demised Premises at the commencement of the term or thereafter erected, installed or placed thereon or therein shall be destroyed or damaged in whole or in part by fire or any other cause, except condemnation, and provided such destruction or damage is required to be covered by insurance, Concessionaire shall give the Casitas General Manager notice as soon as practicable thereof. In the event such damage restricts the purpose and execution of this Agreement, and or creates hazardous area, Concessionaire shall immediately secure the area to prevent injury, vandalism and further damage to persons, improvements, and the contents thereof, and direct its insurer to make any payment of loss proceeds jointly payable to the Concessionaire and Casitas for deposit with the Insurance Trustee. Concessionaire shall promptly restore same to the condition existing immediately prior to such occurrence, or if not possible or feasible in view of the damage sustained and availability of funds with which to rebuild, terminate this Agreement.

(a) Restoration Terms and Conditions. The terms and conditions upon which any buildings or other improvements on, below, above or appurtenant to the premises, including fixtures and equipment shall be restored by Concessionaire after any such destruction or damage by fire or any other cause, except by condemnation, and the terms and conditions upon which the proceeds of insurance, except for small losses waiveable by the Casitas General Manager, which are held in trust by the Insurance Trustees, shall be applied to the cost of such restoration are as follows:

(b) Submission of Plans and Specifications. Concessionaire shall submit to the Casitas General Manager within thirty (30) days after the receipt of the insurance proceeds by Insurance Trustee, complete plans and specifications which shall be designed to restore the buildings and improvements at least to the condition immediately prior to such destruction or damage and as completely similar in character as is practicable and reasonable. The plans and specifications shall be subject to the review of the Casitas General Manager and approval by the Casitas General Manager and such approval shall not be unreasonably withheld. The Casitas General Manager shall either approve the same or serve written notice upon Concessionaire of disapproval thereof and objections thereto.

(c) Submission of Contracts. Concessionaire after approval by Casitas shall furnish to the Insurance Trustee a copy of any contract or contracts which Concessionaire shall enter into for the making of such restoration; or, if the restoration is to be done by Concessionaire, a copy of all subcontracts made by

Concessionaire in connection with such restoration and an estimate of the cost thereof, both in stages and upon completion, which shall be certified by the architect of Concessionaire as being reasonably accurate.

(d) Payments and Retention. During the progress of restoration at the end of each month or from time to time as may be agreed upon, and upon the written request of Concessionaire, the Insurance Trustee shall pay to Concessionaire or to the contractors and material suppliers of Concessionaire for the account of Concessionaire, out of such proceeds held in trust; the amount agreed by Concessionaire and Casitas to be owing to Concessionaire less a ten percent (10%) retention. The retention shall be released thirty-five (35) days after a Notice of Completion is filed and all outstanding punch list items are complete.

(e) Advance Certificate. At the time of each such request for advance by Concessionaire and as a condition precedent thereto Concessionaire shall also submit a certificate signed by Concessionaire and the architect of Concessionaire not more than thirty (30) days prior to such request setting forth the following:

- (1) That the sum then requested either has been paid by Concessionaire or is justly due to contractors, subcontractors, material men, engineers, architects or other persons who have rendered services or furnished materials for the restoration therein specified; the names and addresses of such persons, a brief description of such services and materials, the several amounts so paid or due to each of said persons in respect thereof; that no part of such expenditures has been or is being made the basis, in any previous or then pending request, for the withdrawal of insurance money or has been made out of the proceeds of insurance received by Concessionaire; and that the sum then requested does not exceed the value of the services and materials described in the certificate.
- (2) That, except for the sum then requested in such certificate stated to be due for services or materials, there is no outstanding indebtedness known to the person signing such certificate, after due inquiry, which is then due to labor, wages, materials, supplies or services in connection with such restoration which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's, or material men's statutory or similar lien upon such restoration or upon the premises or the buildings and improvements on, under, or above the premises or any part thereof or Concessionaire's leasehold interest therein.
- (3) That the cost, as estimated by the persons signing such certificate, of the restoration required to be done subsequent to the date of such certificate in order to complete the same, does not exceed the insurance money, plus any amount deposited by Concessionaire to defray such cost.
- (4) That all of the work of restoration so far completed is proper and of the quality and class at least equal to the original work and in accordance with the plans and specifications.
- (5) At the completion of the restoration and following disbursement of the final advance to Concessionaire required to complete the payment of restoration costs, any such insurance proceeds remaining shall be paid by the Insurance Trustee to Concessionaire. In no event, however, shall the Insurance Trustee be liable for any amount in excess of the amounts so received and held in trust, and in the event that the cost of restoration exceeds the proceeds of insurance so held, Concessionaire shall pay such additional cost.

(f) Failure to Commence Restoration. If Concessionaire fails to commence such restoration in accordance with the provisions of this Agreement within one hundred eighty (180) days, or having commenced restoration shall fail to complete it in accordance with such provisions with reasonable diligence, and such failure shall continue for a period of fifteen (15) days after notice by Casitas, Casitas may, at its option and upon serving written notice upon Concessionaire that it elects to do so, make and complete such restoration. In such event, and whether or not this Agreement may have theretofore been terminated by reason of any default by Concessionaire, Casitas shall have the right, as the restoration progresses, to use and apply the insurance proceeds to the cost of such restoration to the extent that it shall not theretofore have been applied to the

payment of reimbursement of costs and expenses of Concessionaire and the mortgagee in making the restoration.

(g) **Abatement.** If the premises are restored, this Agreement shall continue in full force and effect, except that the payment to Casitas by Concessionaire may be abated and/or other relief afforded to the extent that the Casitas General Manager may determine the damage and/or restoration interferes with Concessionaire's operations; provided a claim therefore is filed with the Casitas General Manager within one hundred (100) days of notice of election to restore the premises. Any such claim shall be denied, if the destruction of the Demised Premises is found by the Casitas General Manager to have been caused by the fault or neglect of Concessionaire. Concessionaire agrees to cooperate in the determination of the abatement and/or other relief to be provided by furnishing all information requested relative to its operations, and permitting examination and audit of all accounting records kept in connection with the conduct thereof.

(h) In the event any part of the Demised Premises, building or structure essential to the operation of the Concession facility is totally or partially destroyed or damaged by any cause not resulting in fault or negligence of Concessionaire or Casitas and which is beyond the control of Concessionaire and/or Casitas, rendering the Demised Premises totally or partially inaccessible or unusable, Concessionaire may at its option terminate this Agreement upon written notice to Casitas.

(i) Should Concessionaire elect not to terminate this Agreement, Concessionaire shall within sixty (60) days from the date of the damage or destruction, commence full repair at Concessionaire's cost or a negotiated cost share and continue the performance of this Agreement in good faith to completion. In any event, the Demised Premises shall remain the property of Casitas. Casitas shall be under no obligation to make any repairs or reconstruct any buildings or structures.

#### **17. NON-ASSIGNMENT**

During the term of this Agreement, the responsibilities of the Concessionaire as described herein shall not be assigned to others without prior written approval of Casitas Board of Directors.

#### **18. THIRD PARTY CONTRACTS AND PERMITS**

Concessionaire may not enter into, or issue and administer, third party permits or concession contracts to persons or associations for the purpose of selling or soliciting services, goods, and facilities for the use of the visiting public consistent with the intent and conditions of this Agreement, without prior written approval of Casitas. Written approval shall be by amendment to this Agreement.

#### **19. IMPROVEMENTS, EQUIPMENT AND INVENTORY**

(a) Construction of structures or improvements within the Demised Premises or disposal of the same by the Concessionaire shall only be done with the prior written approval of Casitas.

(b) Casitas current and accurate Property Record Inventory of all Fixed Assets and Equipment installed or constructed within the Demised Premises at the time of execution of this Agreement, is attached hereto as Exhibit A-3.

(c) Concessionaire shall, at its sole cost and expense, perform the improvements listed on Exhibit A-5 attached hereto.

#### **20. CONSTRUCTION**

(a) **Prior Written Approval.** Concessionaire shall not make any alterations, additions, structure replacements or improvements to the Demised Premises without first obtaining Casitas' and Reclamation's prior written approval of all plans, specifications, drawings, and architectural/construction cost estimates, which approval may be withheld if the proposed alteration, addition, or improvement is not within the theme or character of the LCRA or if not approved by Reclamation, exceeds the express or implied scope of Concessionaire's services under this

Agreement, sacrifices the public health, safety, or welfare, or for any other reason infringes on Casitas' operation of the LCRA. The Concessionaire shall provide to Casitas and initial request for consideration by Casitas and the USBR, and pay for any or all USBR or Casitas' plan review or preliminary environmental reviews. Said request may include conceptual sketches and drawings.

(b) Cost and Expense. In the event that Casitas consents to Concessionaire making any alteration, addition, or improvement to the Demised Premises, Concessionaire agrees that the same shall be made at Concessionaire's sole cost and expense.

(c) Plans and Specifications. Concessionaire shall appropriately utilize the services of architects, engineers, and contractors that are appropriately licensed by the State of California. Concessionaire shall cause two sets of a preliminary design to be prepared and submitted for review and approval by Casitas and the USBR; and within sixty (60) days following the approval thereof, cause two sets of working drawings and a general construction schedule to be prepared and submitted for review and approval by Casitas and the USBR. Upon approval thereof, said working drawings shall be incorporated herein by reference. Concessionaire shall within thirty (30) days after the approval of the working drawings as provided herein, post the construction site with a notice on non-responsibility of Casitas for payment of the works of improvement, commence construction of the above-described improvements and shall diligently prosecute and complete same. The improvements shall be deemed to be complete upon acceptance of the works of improvement by the Casitas General Manager, as evidenced by the certification of a qualified engineer or architect that the improvements were built in compliance with all state and county building and safety codes. The concessionaire shall provide to Casitas one copy of as-built plans within sixty (60) days after the completion of the works of improvement.

(d) Practices and Procedures. In making any alterations, additions, or improvements to the Demised Premises, Concessionaire agrees to comply with all Federal, State, and local building and safety codes. Concessionaire agrees that Casitas shall have the right to access the premises during the construction work for the purposes of Casitas' own inspection of the construction work. This inspection is not in service to the Concessionaire or a substitute for Concessionaire's inspection or control of the construction work. The Concessionaire shall provide to Casitas the names and phone numbers of the Concessionaire's representative and a listing of all authorized contractors for the construction work. The access to and use of the LCRA by the contractors and Concessionaire's representatives shall be in accordance with all applicable rules, regulations, and ordinances of the LCRA.

(e) Insurance and Bonds.

(1) Concessionaire shall be responsible for providing insurance coverage for the construction in an amount not less than that specified in Paragraph 15 hereof or evidence that his existing coverage will cover the construction.

(2) Concessionaire shall be responsible for providing bonds for the construction as follows:

- a. Payment Bond. Concessionaire shall file with Casitas a surety bond to be approved by Casitas in a sum of not less than one hundred percent (100%) of the total amount payable by the terms of the construction contract, conditional as provided by Section 3247 of the Civil Code.
- b. Performance Bond. Concessionaire shall also file with Casitas a surety bond, to be approved by Casitas in a sum of not less than one hundred percent (100%) of the total amount payable by the terms and conditions of the construction contract.
- c. Maintenance and Guarantee. Concessionaire hereby guarantees that the entire work constructed by him under contract will meet fully all requirements thereof as to quality of workmanship and of materials furnished by him/her. Concessionaire hereby agrees to make, at his/her own expense, any repairs or replacement made necessary by defects in material or workmanship supplied by him/her that becomes evident within one (1) year after completion, and to

restore to full compliance with the requirements of the contract, any part of the work which, during said one year period, is found to be deficient with respect to any provision of the contract. Concessionaire shall make all repairs and replacement promptly upon receipt of written orders from Casitas to do so. If the Concessionaire fails to make the repairs and replacements promptly, Casitas may do the work and the Concessionaire and his/her Surety shall be liable to Casitas for the cost thereof.

- d. Each of said bonds shall be executed by the Concessionaire and a corporate surety licensed in the State of California. If the amount payable under terms of the contract exceeds the original bid because of additional quantities and/or the issuance or change orders, said surety shall be required to cover the additional amount.

(f) Surrender on Termination. In the event that Casitas consents to Concessionaire making any alterations, additions, or improvements that are attached to the real property constituting the Demised Premises, the same will become a part of the real property and be surrendered to Casitas upon termination of this Agreement (whether by expiration of the term, cancellation, forfeiture, or otherwise) and without compensation being paid to Concessionaire.

(f) Removal. Casitas reserves the right, upon written notice, to require the Concessionaire to remove structures, buildings and/or improvements made by the Concessionaire with the consent of Casitas during the term of this Agreement within ninety (90) days of the termination of this Agreement (whether by expiration of the term, cancellation, forfeiture, or otherwise). Should Concessionaire fail to remove said structures, buildings, and improvements pursuant to said notice, then the same may be sold, removed, or demolished by Casitas, and Concessionaire shall reimburse Casitas for any cost or expense in connection therewith in excess of any consideration received by Casitas as a result of said sale, removal, or demolition. For any removal, Concessionaire shall restore the Demised Premises to its original condition.

(g) Trade Fixtures. Upon prior written approval by Casitas, Concessionaire may provide and install appliances, furniture, fixtures and equipment mutually agreed by the parties to be required for the operation of the Concession. Said appliances, furniture, fixtures and equipment shall remain the property of Concessionaire who shall have the right to remove, repair, and replace same from time to time as appropriate and at no cost or expense to Casitas.

(h) Trade Fixtures Removal. During the last thirty (30) days preceding the scheduled expiration of this Agreement, and within thirty (30) days after any sooner termination of this Agreement, Concessionaire shall remove any appliances, furniture, fixtures and equipment from the premises, other than those which have been furnished by Casitas or are so affixed that their removal from the Demised Premises cannot be accomplished without damage to the realty. Should Concessionaire fail to so remove said appliances, furniture, fixtures and equipment within said thirty (30) day period, Concessionaire shall lose all right, title and interest in and thereto, and Casitas may elect to keep same upon the premises or to sell, remove or demolish same. Concessionaire shall reimburse Casitas for any cost incurred in excess of and consideration received from the sale, removal or demolition thereof.

## 21. OPTION TO PURCHASE

Upon termination of this Agreement (whether by expiration of the term, cancellation, forfeiture, or otherwise), Casitas shall have the first-right option to purchase any and all structures, installations, facilities, equipment and stock-in-trade owned by Concessionaire.

## 22. REVIEW OF ADMINISTRATION, OPERATION, MAINTENANCE AND DEVELOPMENT

(a) The parties hereto shall meet annually, or more often if requested by either party, to inspect the Demised Premises and review the administration, operation, maintenance and requested development of the Concession. The purpose of this inspection and review is to ensure that administration, operation, maintenance and development procedures are adequate; to identify and correct deficiencies and problems; and to ensure the

administration of the Concession is in accordance with the intended purposes and in compliance with Casitas Ordinances. Deficiencies and problems shall be corrected in a timely manner by the Concessionaire.

(b) Concessionaire shall be evaluated by Casitas under a Concessions Review Program. The Concessions Review Program will consist of four separate evaluations: (1) Operations and Facilities Evaluation, (2) Public Health Service Inspection, (3) Safety and Environmental Evaluation, and (4) Contract Compliance Evaluation. The Operation and Facilities Evaluation shall be conducted semiannually. All other evaluations shall be conducted as Casitas may desire as identified under this agreement. Casitas may, at its discretion, terminate this Concession Agreement in the case of an unsatisfactory rating on any of the evaluations.

(c) The USBR may conduct an annual inspection of Casitas and Concession operations and will provide in writing necessary corrective action and time line for compliance.

(d) Notification of any non compliance with the term and conditions of this Agreement shall be in writing, giving a ninety (90) day period of time in which the non-compliant act or omission shall be corrected.

(e) In the event the Concessionaire disagrees with Casitas' direction regarding any corrective action, Concessionaire and Casitas shall attempt to reach mutual agreement on such action within the ninety (90) day period, or such longer period as may be mutually agreed to by both parties hereto, as necessary to address any notice of non-compliance. If, after ninety (90) days, or longer agreed period, there is no mutual agreement on the proposed action, Casitas' proposed action shall take precedence. If this occurs both parties have the right to terminate this Agreement after notice in writing as set forth in Item 24 below.

#### 23. EXAMINATION OF RECORDS

(a) Casitas, a public entity, requires that, at any time, the Concessionaire produce for examination any pertinent books, documents, papers, and financial records of the Concessionaire and/or the Concessionaire's contractors, permittees involving transactions related to this Agreement within the Public Records Act parameters.

(b) Casitas may, at any time, request an independent audit of the Concessionaire's financial activities for the LCRA. Such independent audit shall be performed at the cost of Casitas. Any discrepancies found during such audits shall be corrected within a reasonable amount of time, as determined by Casitas, by the responsible party.

#### 24. NOTICE TO CURE/DISPUTE RESOLUTION

(a) Non-Compliance. Notification of non-compliance with the terms and conditions of this Agreement shall be in writing, giving a period of time in which the non-compliance shall be corrected. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time shall be grounds for termination of all or part of this Agreement or temporary suspension of operation after notice in writing of such intent.

(b) Dispute Resolution. In the event of any dispute or controversy arising out of or relating to this Agreement, the parties hereto agree to exercise their best efforts to resolve the dispute as soon as possible as outlined in Exhibit D.

(c) The inability of Casitas' and Concessionaire's designated representatives to mutually agree on a proposed action within thirty (30) calendar days, or longer period as may be agreed to by the parties hereto, may result in termination of this Agreement by either party.

#### 25. TERMINATION

This Agreement shall terminate and all rights and obligations of the parties under this Agreement will cease under any one of the following conditions:



(a) Upon expiration of the term of this Agreement.

(b) For cause, including, but not limited to, violations of Casitas Ordinance entitled "An Ordinance of Casitas Municipal Water District Establishing Rules and Regulations for the Public Use of the Lake Casitas Recreation Area", failure to pay fees, violation of health and safety regulations and violation of Federal, State and local regulations as applicable, upon receipt of a written notice of termination from Casitas.

(c) At any time upon written notice to Concessionaire that Casitas has received a notice of termination from the USBR.

(d) In the case of termination for cause, Concessionaire must completely vacate the Demised Premises within thirty (30) calendar days of written notice of determination.

## 26. CANCELLATION UPON DEFAULT

(a) Notice to Concessionaire. Upon the occurrence of any one or more of the events of default hereinafter described, this Agreement shall be subject to cancellation. As a condition precedent thereto, the Casitas General Manager shall give Concessionaire ten (10) days notice by registered, certified mail, or hand delivery of the date set for cancellation thereof; the grounds therefore; and that an opportunity to be heard thereon before the Board of Directors will be afforded on or before said date, if request is made therefor.

(b) Possession. Upon cancellation CASITAS shall have the right to take possession of the Concession premises, including all improvements, equipment, and inventory located thereon, and use for the purpose of satisfying and/or mitigating all damages arising from a breach of this Agreement.

(c) Notice to Lenders. The Casitas General Manager shall send a copy of any intended cancellation of this Agreement to any Lender whose security would be affected thereby provided that such Lender shall have previously registered with the Casitas General Manager by written notice specifying the name and address of said Lender; and upon Lender's request for postponement, extend the date set for cancellation by such time as the Casitas General Manager finds reasonable to correct the grounds for cancellation or to provide a new Concessionaire under a power of sale or foreclosure contained in the hypothecation or mortgage. Any new concessionaire shall be responsible for correcting the original grounds for cancellation within a time set by the Casitas General Manager.

(d) Events of default shall be:

- (1) The abandonment, vacation or discontinuance of operations on the premises for more than forty-eight (48) consecutive hours.
- (2) The failure of Concessionaire to punctually pay or make the payments required hereunder when due, where the delinquency continues beyond ten (10) days following written notice for payment thereof.
- (3) The failure of Concessionaire to operate in the manner required by this Agreement, where such failure continues for more than ten (10) days after written notice from the Casitas General Manager to correct the condition therein specified.
- (4) The failure to maintain the premises and the improvements constructed thereon in the state of repair required hereunder, and in a clean, sanitary, safe and satisfactory condition, whether such failure continues for more than ten (10) days after written notice from the Casitas General Manager to correct the condition.
- (5) The failure of Concessionaire to keep, perform and observe all other promises, covenants, conditions and agreements set forth in this Agreement, where such failure continues for more than thirty (30) days after written notice from the Casitas General Manager for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and Concessionaire shall have commenced to

perform whatever may be required to cure the particular default within ten (10) days after such notice and continues such performance diligently, said time limit may be waived in the manner and to the extent allowed by the Casitas General Manager.

- (6) The Casitas General Manager determines that the Concessionaire is insolvent. Concessionaire shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether it has committed an act of bankruptcy or not, and whether insolvent within the meaning of Federal Bankruptcy Law or not.
- (7) The filing of a voluntary petition in bankruptcy by Concessionaire; the adjudication of Concessionaire as a bankrupt; the appointment of any receiver of Concessionaire's assets; the making of a general assignment for the benefit of creditors, a petition or answer seeking an arrangement for the reorganization of Concessionaire under any Federal Reorganization Act, including petitions or answers under Chapter XI of the Bankruptcy Act; the occurrence of any act other than under the federal bankruptcy laws which operates to deprive Concessionaire permanently of the rights, powers and privileges necessary for the proper conduct and operation of the Concession including the levy of any attachment or execution which substantially interferes with Concessionaire's operations under this Agreement and which attachment or execution is not vacated, dismissed, stayed or set aside within a period of sixty (60) days.
- (8) Determination by the Casitas General Manager, the California Fair Employment and Housing Commission, or the Federal Equal Employment Opportunity Commission of discrimination having been practiced by Concessionaire in violation of state and/or federal laws thereon.
- (9) The execution by Concessionaire of an assignment for the benefit of creditors.
- (10) Transfer of the majority controlling interest of Concessionaire to persons other than those who are in control at the time of the execution of this Agreement without approval thereof by the Casitas General Manager.
- (11) Failure of Concessionaire to maintain any current licenses or permits required by any local, state or federal agencies necessary for the conduct of Concessionaire's business.
- (12) Waiver. Failure or delay of Casitas to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of Casitas to declare one breach or default does not act as a waiver of Casitas' right to declare another breach or default.
- (13) Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to Casitas.

## 27. RIGHT OF ENTRY

(a) General. Any officers and/or authorized employees of Casitas may enter upon the Demised Premises any and all reasonable times for the purpose of determining whether or not Concessionaire is complying with the terms of this Agreement, or for any other purpose incidental to the rights of Casitas within the demised premises. No re-entry or taking of the premises by Casitas pursuant to this Agreement shall be construed as an election to terminate this Agreement, unless a written notice of such intention is given to Concessionaire or unless the termination thereof is decreed by a court of competent jurisdiction.

(b) Abandonment. In the event of an abandonment or discontinuance of operations for a period in excess of forty-eight (48) hours, Concessionaire hereby irrevocably appoints Casitas as an agent for continuing operation and authorizes Casitas to do any combination of the following: (1) Take possession of the premises,

including all improvements, equipment and inventory thereon; (2) remove any and all persons or property on said premises and place any such property in storage for the account of and at the expense of Concessionaire; (3) sublicense the premises; and, (4) after payment of all expense of such sublicensing or apply all payments realized there from to the satisfaction and/or mitigation of all damages arising from Concessionaire's breach of this Agreement. Entry by Casitas upon the premises for the purpose of exercising the authority conferred under this provision shall not operate as a waiver of any other rights that Casitas may have in law or equity to remedy a breach of this Agreement.

**28. INDEPENDENT CONTRACTOR**

In performing the obligations hereunder, Concessionaire is engaged solely in the capacity of independent contractor, it being expressly understood that no relationship between the contracting parties hereto other than that of independent contractor has been or is intended to be created. The parties to this Agreement do not intend to create a partnership, joint venture, relationship of master and servant, or principal and agent. It is mutually understood and agreed that the relationship created between the parties to this Agreement is to be determined in accordance with the laws relating to owners and lessees of real property.

**29. SEVERABILITY**

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall not be affected thereby and shall remain in full force and effect.

**30. NOTICE**

Any notices concerning this Agreement may be given, and all notices required by this Agreement or concerning performance under this Agreement shall be given, in writing, and shall be personally delivered or mailed addressed as shown below, or such other address or addresses as may be designated by either of the parties, in writing: Any notice required to be given under the terms of this Agreement or any law applicable thereto may be placed in a sealed envelope with postage paid, return receipt requested, addressed to the person on whom it is to be served, and deposited in a post office, mailbox, sub-post office, substation or mail chute, or other like facility regularly maintained by the United States Postal Service.

Casitas: Casitas Municipal Water District, 11311 Santa Ana Road, Ventura, CA 93001

Concessionaire: Lake Casitas Marina, Inc., Gary Wolfe, President, 2923 Seaview Avenue, Ventura, CA 93001.

**31. BOARD REVIEW**

The Board of Directors may review all decisions by the Casitas General Manager contained in this Agreement. A decision rendered by the Casitas General Manager is deemed final if it is not placed on the Board's agenda within sixty (60) days of being rendered by the Casitas General Manager. If the Board places a decision rendered by the Casitas General Manager on the Board's agenda within said sixty (60) day period, the decision is not final until formally ratified by the Board.

**32. MERGER AND MODIFICATION**

This Agreement contains all the agreements of the Parties with respect to any matter covered or mentioned in this Agreement, and no prior agreements shall be effective for any purpose. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.

**33. ATTORNEYS FEES**

In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys fees, costs and expense.

34. **ASSIGNMENT**

Neither the Concessionaire nor Casitas shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

35. **SUCCESSORS IN INTEREST**

Subject to Paragraph 34, the rights and obligation of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs, and assigns.

36. **DESIGNATED REPRESENTATIVES/NOTICES**

The parties hereto agree that the designated representatives for administration of this Agreement are as follows, or as may be further delegated in writing by the following:

Casitas – General Manager, Casitas Municipal Water District, 1055 Ventura Avenue, Oak View, California 93022.

Designated Representative – Park Services Manager, 11311 Santa Ana Road, Ventura California 93001.

Concessionaire – Gary Wolfe, 2923 Seaview Avenue, Ventura, California 93001

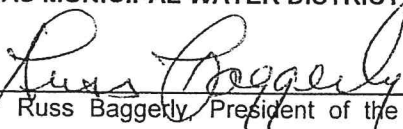
Any written notice, demand, or request, as required or authorized by this Agreement, shall be properly given if delivered by hand, or by mail, postage prepaid, to the other party as above listed. Both parties hereto are responsible for notifying all affected parties of any subsequent change of address, organizational changes, responsibility adjustments, and other related changes, as they take place.

37. **AGREEMENT DRAFTING CONSIDERATIONS**

The parties hereto agree and acknowledge that this Agreement has been drafted after full arms-length negotiations, and that the usual rule of contractual construction that all ambiguities shall be construed against the drafting party shall not apply to the interpretation of this Agreement.

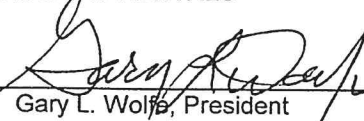
**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the first date written above.


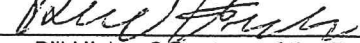
**CASITAS MUNICIPAL WATER DISTRICT**

By:   
Russ Baggerly, President of the Board of Directors

**CONCESSIONAIRE**

**LAKE CASITAS MARINA, INC. d/b/a  
CASITAS BOAT RENTALS**

By:   
Gary L. Wolfe, President

Attest:   
By:   
Bill Hicks, Secretary of the Board of Directors

## Appendix 1: Definitions

- (a) "Administration, operation, maintenance, and development" means the acts or processes used to direct management of the Park Store; manage and enhance resources and facilities, law enforcement, and keeping facilities and equipment in good repair and usable working condition. The term maintenance includes the replacement and/or construction of equipment and/or facilities as may be agreed upon by the parties hereto.
- (b) "Bait and Tackle" Bait and Tackle: means all the equipment, such as rods, lines, bait, etc., used in angling. Bait and tackle as referenced in this document is equipment items that are appropriate for fish species found in Lake Casitas and consistent with Casitas Ordinances.
- (c) "Capital improvement" means a structure, fixture, or non-removable equipment provided either by Casitas or Concessionaire pursuant to the terms of this Agreement and located on the Demised Premises. A capital improvement does not include any interest in land. Additionally, a capital improvement does not include any interest in personal property of any kind including, but not limited to, vehicles, boats, barges, trailers, or other objects, regardless of size, unless an item of personal property becomes a fixture as defined in this Agreement. A capital improvement is considered to be a real property improvement for the purposes of this Agreement.
- (d) "Concession" means a non-Federal commercial business that supports appropriate public recreational uses and provides facilities, goods, or services for which revenues are collected. A concession generally involves use of the land described as the Demised Premises and may involve the use or development of real property improvements.
- (e) "Concessionaire" means an entity contracted by Casitas through a third-party concessions contract to operate a concession.
- (f) "Depreciated Value" means the value of equipment or Fixed Asset which includes the amount of depreciation not yet incurred plus the salvage or residual value.
- (g) "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, consistent with 43 CFR 12.
- (h) "Fixed Assets" are any permanent recreation-related structures, fixtures, or capital improvements placed on the Demised Premises, and recreation-related plant, property and equipment (PP&E) placed on or used within the LCRA by the Casitas and/or Concessionaire during the term of this Agreement or any extension thereof, whether constructed or acquired with or without Federal Financial Assistance.
- (i) "Fixtures" includes "non-removable equipment" and means manufactured items of property of an independent form and utility, necessary for the basic functioning of a structure, that are affixed to and considered to be part of the structure such that title is with the Casitas as real property once installed. Fixtures do not include building materials (e.g. wallboards, flooring, concrete, cinder blocks, steel beams, studs, window frames, windows, rafters, roofing, framing, siding, lumber, insulation, wallpaper, and paint).
- (j) "Concession Fee" means the fee established by a third party concessions contract, which the Concessionaire must pay to Casitas for operation of the concession. The fee is assessed as a percentage of the gross receipts.
- (k) "Good repair" means maintaining functional use and longevity of facilities and equipment through use of appropriate actions including controlled maintenance, standard operating procedures, maintenance manuals, etc.; meeting Federal, State and applicable local health department standards; meeting public safety needs and standards; and maintaining facilities in a safe, neat, clean, and well kept condition.
- (l) "Casitas" means the Casitas Municipal Water District, or its duly authorized representative(s).

(m) "Mutually agreed" means both parties' designated representatives are in agreement on a proposed action. Such agreements shall be in writing

(n) "National Environmental Policy Act" (NEPA) established an environmental policy for the United States, providing federal agencies with an interdisciplinary framework and action-forcing procedures for environmental planning and decision-making, and requiring public involvement throughout the process.

(o) "Property Inventory List" means an inventory list of Fixed Assets and Equipment acquired, including any items acquired, installed or constructed with the assistance of Federal funds, by Casitas or by Concessionaire solely at its own expense or at the expense of its contractors. The list provides details about each item including a description of each Fixed Asset, a serial number or identification number, the source of the item, who holds title, the acquisition date and cost of the item, the percentage of Federal participation in the cost, the location and condition of the item, and ultimate disposal data.

(p) "Property Record Inventory" means a list of all Fixed Assets at the time of execution of this Agreement. The list shall include a description of each Fixed Asset, a serial number or identification number, the source of the item, who holds title, the acquisition date and cost of the item, the percentage of Federal participation in the cost, and the location and condition of the item.

(q) "USBR" means the United States Department of the Interior, Bureau of Reclamation, or its duly authorized representative(s).

(r) "Recreation facilities" means those facilities constructed or installed within the LCRA for recreational use by the public or for support of such recreational use. Said facilities may include, but are not limited to, buildings and other structures (such as park headquarters, visitor centers, maintenance shops, etc.), campgrounds, picnic grounds, boat docks and ramps, electrical lines, water systems, roads, trails, parking areas, sewer systems, signs, trash facilities, boundary and interior fencing, etc.

(s) "Residual Value" means the value of a Fixed Asset after all of the depreciation has been incurred

(t) "Resource Management Plan" means the plan prepared in accordance with Title XXVIII of Public Law 102-575 and Reclamation's Resource Management Plan Guidebook.

(u) "Salvage Value" means the value of an item of Equipment after all of the depreciation has been incurred.

(v) "Structure" means a building, dock, or similar edifice affixed to the land so as to be part of the real estate. A structure may include both constructed infrastructure (e.g. water, power, and sewer lines) and constructed site improvements (e.g. paved roads, retaining walls, sidewalks, and paved parking areas) that are permanently affixed to the land so as to be part of the real estate and that are in direct support of the use of a building, dock, or similar edifice. Landscaping that is integral to the construction of a structure is considered as part of a structure. Interior furnishings that are not fixtures are not part of a structure.

(w) "Gross Sales" means money, cash receipts, assets, property or other things of value, including, but not limited to, gross charges, sales, fees and commissions made or earned by Concessionaire and/or all the assignees, subcontractors, licensees, permittees or concessionaires thereof, whether collected or accrued from any business, use or occupation or any combination thereof, originating, transacted, or performed in whole or in part, on the Demised Premises, including, but not limited to, food and beverage sales, merchandise sales, catering and "to-go" sales and services, and other revenues of any kind except: (i) the amount of any sales tax, use tax, gross receipts tax, successor tax or similar tax, imposed by a federal, state, municipal or governmental authority directly on sales and collected from customers; (ii) the exchange of merchandise between other concessions and/or stores of Concessionaire where such exchange is made solely for the convenient operation

of the business of Concessionaire and not for the purpose of depriving Casitas of the benefit of a sale which otherwise would be made from the Demised Premises; (iii) proceeds from the sale of trade fixtures, machinery and equipment; and (iv) the amount of any cash or credit refund made upon any sale from the Demised Premises previously included in Gross Sales.

## Appendix 2: List of Acronyms

ESA	Endangered Species Act
IPM	Integrated Pest Management
LCRA	Lake Casitas Recreation Area
NEPA	National Environmental Protection Act
NHPA	National Historic Preservation Act
PP&E	Plant, Property and Equipment
RMP	Resource Management Plan
USBR	U.S. Bureau of Reclamation



## EXHIBIT A

### PARK STORE CONCESSION - DEMISED PREMISES

The purpose of Exhibit A is to establish the physical boundaries of the concession operation as generally illustrated in Exhibit A-1 and A-2, attached hereto. Casitas owns and maintains the Park Store building, a wood frame building structure of floor dimensions approximating 46' by 49' (2,254 SF), concrete walkway and porch, asphalt parking lot, area for tank for propane sales, electrical wiring and lighting fixtures, water and sewer plumbing, and sewage holding tank, as shown in Casitas Drawing Numbers 1244 thru 1251, 1260, and 1582 thru 1587, which are on file with Casitas.

The Park Store Concession is authorized to conduct its business within the specified locations in the LCRA, Casitas and the USBR will continue have ownership/management over all assigned Demised Premises.

# MEMORANDUM

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TO: Recreation Committee  
From: Michael L. Flood, General Manager  
RE: 2021 Lake Casitas Recreation Area (LCRA) Fee Survey  
Date: April 5, 2021

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## RECOMMENDATION:

Recommend that the Recreation Committee recommends the Board of Directors consider the recommended LCRA fee changes and set a fee hearing.

## BACKGROUND:

At the direction of the General Manager, LCRA Staff completed a fee survey, which is to be conducted yearly for the purpose of evaluating the current market rate for our services and fees. This informal survey was conducted between the months of November 2020 through February 2021. The information gathered is from similar facilities in the region and although they vary in services, location and amenities, our goal is to stay near the market rate while still covering LCRA costs.

A table with the survey results is attached.

The following recommendations are intended to achieve the goals of covering LCRA operating/maintenance costs while providing additional revenues that can be set aside for future capital replacements/improvements at the LCRA.

## DISCUSSION:

Based on the information provided by the survey, staff has the following recommendations:

### Trailer Storage Rate:

Trailer storage was last increased in March of 2020. The LCRA is below the current market rate for storage sites up to 32 and 45 feet. The LCRA's current rate for a 32 foot storage site is \$105 and the lowest rate amongst those Ventura County facilities surveyed is \$131.00, a difference of approximately 25%. The 45 foot storage site at LCRA is \$130 a month and the lowest rate in those surveyed is \$145, a difference of approximately 15%. The amenities are compatible, with a secured fenced area, lights, dump station access, and accessibility 7 days

a week during business hours. However, LCRA's storage area needs maintenance repairs to asphalt, lights, and fencing. We recommend a 15 to 20% increase with the goal to off-set for storage area improvements.

**Recommendation: Increase trailer storage rates 15% to 20% from the current rate.**

#### Kayak Storage Rate:

The LCRA's storage area also has the ability to store up to 44 kayaks with all the storage racks being of the same length and can store kayaks up to 18 feet. The kayak storage rate was not addressed in the last fee survey in 2019.

The current rate to store a kayak is \$1.00 per foot. There are various sizes of kayaks stored from 8 feet in length (\$8 a month equates to \$4,224 annually), to 12 feet (\$12 a month equates to \$6,336 annually). The majority are approximately 10 feet in length (\$10 a month equates to \$5,280 annually). Note that these calculations are based on one size at full capacity for that size only.

The onsite Bait and Tackle concessionaire has kayak storage at a flat rate of \$15 a month, which has been in place for approximately 4 years. A flat rate of \$20 a month (would equate to \$10,560 annually), is recommended for kayak storage. The increase would also help off-set the cost for the storage area improvements.

**Recommendation: Increase/change the kayak storage rate to a flat rate of \$20/month per kayak.**

#### Annual Frequent Visitor Decals:

Annual Frequent Visitor Decals (FVD) can be purchased for a vehicle and/or a vessel and allow guest to enter daily during business hours with their respective vehicle or vessel and includes one pet per vehicle and an overnight pass for vessels. The FVD fees for both vehicle and vessels were last adjusted in March of 2020. Currently the FVD's are comparable to that of Lake Piru and Lake Cachuma, but below that of larger-sized lakes in the Southern California region.

Currently LCRA's vehicle annual FVD is \$135, with the option of a second annual FVD at \$70 and every additional annual FVD after that (i.e. 3+) at \$35. The option to purchase an additional annual FVD must be from the same household. It is recommended for consideration the vehicle annual FVD fee be increased from \$135 to \$150 (11% increase), and any additional annual FVD remain at \$70 (same household only). The \$35 (3+) annual FVD option should be discontinued.

**Recommendation: Increase the Annual Frequent Visitor Decal to \$150, maintain the \$70 additional decal for the same household, and eliminate the \$35 (3+) additional decal for the same household.**

Other Considerations:

It is recommended that the daily vehicle entry fee, snowbird program, camping, pet fee, and water adventure tickets be reviewed/revisited after the 2021 summer season in preparation for the 2022 season.

Summary of Recommended Changes to the LCRA Fee Schedule:

- 1. Increase trailer storage rates 15% to 20% from the current rate.**
- 2. Increase/change the kayak storage rate to a flat rate of \$20/month per kayak.**
- 3. Increase the Annual Frequent Visitor Decal to \$150, maintain the \$70 additional decal for the same household, and eliminate the \$35 (3+) additional decal for the same household.**

**LAKE CASITAS RECREATION AREA – 2020 FEE SURVEY**

**INCREASES ARE IN ORANGE 02/2021**

Informal Survey September October 2019	Cachuma Lake	Lake Piru	Lake Silverwood	Castaic Lake	Big Bear	Hobson and Faria Beach Parks	Steckel Park	Ventura Beach RV Resort	Lopez Lake	Lake Casitas Recreation Area Current prices 2/21
Operating Agency	SB County	United Water District	CA State Parks	LA County	Big Bear District	County of Ventura	County of Ventura/ko a	Privately Owned/Op	SLO County	Casitas Municipal Water District
Daily Vehicle Off Season	\$10.00	\$10.00	\$10.00	\$11.00	N/A	same as camping fee	\$2.00	\$10.00	\$10.00	\$10.00
Daily Vehicle On Season	\$10.00	\$14.00	\$10.00	\$11.00 RV \$14.00	N/A	same as camping fee	\$5.00 weekend	\$10.00	\$10.00	\$20.00
Annual Vehicle	\$75/\$100 \$90-\$120	\$130/\$75	\$195.00	\$140 \$150.00	N/A	N/A \$60.00	N/A \$60.00	N/A	\$100.00	\$135, (\$70/\$35 Same address) Recommend increase and eliminate \$35 for 22/23
Daily Boat Off Season	\$13.00	\$8.00	\$8.00 \$10.00	\$13.00	\$25.00	N/A	N/A	N/A	\$10.00	\$15.00
Daily Boat On Season	\$13.00	\$10.00	\$8.00 \$10.00	\$13.00	\$25.00	N/A	N/A	N/A	\$10.00	\$15.00
Daily Kayak/Canoe	\$5.00	\$5.00 \$10.00	N/A	\$7.00	\$20.00	N/A	N/A	N/A	\$5.00	\$5.00
Annual Kayak	\$30.00 \$40.00	\$50.00	N/A	\$105.00	\$50.00	N/A	N/A	N/A	\$60.00	\$40.00
Annual Boat	\$100/125 Res/Non resident	\$130/ \$75 senior	\$100.00	\$135.00	\$110.00	N/A	N/A	N/A	\$100.00	\$145.00
Tent Campsite Off Season	\$25.00	\$25.00	\$45.00	\$20.00 \$30.00	\$34.50 \$37.00	\$37.00	\$23* \$24.50	\$58 - 95 \$60 - 85	\$25.00 \$28.00 weekday	\$35.00 Recommend increase review in 2022
Tent Campsite On Season	\$30.00	\$32.00	\$45.00	\$20.00 \$30.00	\$34.50 \$37.00	\$39.00	\$23 \$24.50	\$58 - 95 \$70 - 95	\$28/\$36 wkend/hol	\$40.00 Recommend increase review in 2022

Informal Survey 2021	Cachuma Lake	Lake Piru	Lake Silverwood	Castaic Lake	Big Bear Lake	Hobson & Faria Beach	Steckel Park	Ventura Beach RV	Lake Lopez	Lake Casitas Recreation Area Current prices 2021
Basic Water/Elect off season	\$40.00	\$28.00	\$50.00	N/A	\$44.50	\$50 - \$55	N/A	\$69.50 \$74.50	\$42.00 \$45.00	\$44.00 Recommend increase review in 2022
Basic Water/Elect On Season	\$45.00	\$38.00	N/A	N/A	\$44.50	N/A \$53-\$58	N/A	\$79.50	\$44 wk \$47 hol	\$52.00 Recommend increase review in 2022
Deluxe water, elect, pad and grass Off season	\$40.00	\$40.00	N/A	N/A	N/A	N/A	\$37.00 \$39.00	\$74.50	\$40 wk \$42 - 50 hol	\$58.00 Recommend increase review in 2022
Deluxe water, elect, pad and grass On season	\$45.00	\$50.00	N/A	N/A	N/A	N/A	\$37.00 \$39.00	\$84.50	\$42 wk \$45 - \$50 hol	\$63.00 Recommend increase review in 2022
Executive water, elect, pad and sewer Off season	\$45.00	\$40.00	\$50.00	N/A	N/A	N/A	\$37.00 \$39.00	\$81.50 \$150	\$40 \$42 - \$50	\$69.00 Recommend increase review in 2022
Executive water, elect, pad and sewer On season	\$50.00	\$50.00	\$50.00	N/A	N/A	\$50/53	\$37.00 \$39.00	\$91.50 \$168	\$42 \$45 - \$50	\$76.00 Recommend increase review in 2022
Group Camping	\$220 - \$825 + \$30 res	\$250 - \$525	\$200 - \$325	\$100 - \$225	N/A	N/A	\$140 + \$140 dep	N/A	\$168 - \$420	\$253.00 to \$506.00 Recommend increase review in 2022
Group Day Use	N/A	\$60 to \$90 \$20res \$100 dep.	N/A	N/A	N/A	N/A	\$90-\$185 \$100-200 +	N/A	\$50-\$190	\$175.00 Recommend increase review in 2022
Extra Vehicle Off Season	\$10.00	\$15.00	\$10.00	\$11.00	N/A	\$37/39 Week/Weekend	N/A	\$10.00	\$13.00	\$14.00 Recommend increase review in 2022
Extra Vehicle On Season	\$10.00	\$15.00	\$10.00	\$11.00	N/A	\$37/39 Week/Weekend	N/A	\$10.00	\$13.00	\$20.00 Recommend increase review in 2022

Informal Survey 2021	Cachuma Lake	Lake Piru	Lake Silverwood	Castaic Lake	Big Bear Lake	Hobson Faria Beach	Steckel Park	Ventura Beach RV	Lopez Lake	Lake Casitas Recreation Area Current prices 2021
RV Daily	N/A	\$32.00	N/A	\$14.00	N/A	N/A	N/A	N/A	N/A	\$10 off - \$20 on season
Pet	\$3.00	\$3.00	No Charge	No Charge	N/A	\$1.00 \$2.00	\$1.00 \$2.00	\$5.00	\$ .50	\$3.00
Senior/Disabled Annual	\$50 res \$60 non	\$75.00	N/A	\$65boat \$75veh	N/A	\$30.00	\$30.00	N/A	\$90.00	\$135 ( \$70/\$35 Same address)
Bus Daily	\$40.00	\$32.00	\$30 - 10-25 \$60 - 25+	\$30.00	N/A	N/A	N/A	N/A	\$40.00	\$30.00
Overnight Boat	\$13.00	N/A	\$25.00	N/A	N/A	N/A	N/A	N/A	\$10.00	\$25.00
Overnight Kayak/Canoe	\$5.00	N/A	N/C	N/A	N/A	N/A	N/A	N/A	\$5.00	\$4.00
Dump Fee (non campers)	\$10.00	\$8.00 \$9.00	N/A	\$7.00	N/A	\$15 - \$25	\$15 - \$25	\$32.00	N/A	\$10 / \$20
Walk In	N/A	\$2.00 \$5.00	\$5.00	N/A	N/A	N/A	N/A	\$15.00/ea	\$3.00	No Charge
Quagga Inspection	N/C	N/C	N/C	N/C	N/A	N/A	N/C	N/A	N/C	\$68.00 lock, cable
Reservation Fee	\$8 / \$20	\$7 \$20/\$30	\$8.50	N/A	N/A	\$10.00 \$11.00	\$10/\$11 - \$3/\$5	N/A	\$10.00	\$10.00

Notes:

**CASITAS WATER ADVENTURE – 2019 FEE SURVEY**

<b>Informal Survey October 2019</b>	<b>Mustang Water Park</b>	<b>The Ravine</b>	<b>Hurricane Harbor</b>	<b>Casitas Water Adventure</b>
<b>Location/Operating Agency</b>	Arroyo Grande, CA Private but in Lake Lopez Rec Area	Paso Robles, CA Private	Valencia, CA - Six Flags	Casitas Municipal Water District
<b>Single Splash Child</b>	\$19.00	\$21.99 \$24.99	\$36.99	\$15.00 weekday / \$17.00 Weekend
<b>Single Splash Adult</b>	\$22.00	\$29.99 \$31.99	\$44.99	\$15.00 weekday / \$17.00 weekend
<b>Dry Observer</b>	N/A	N/A	N/A	\$15.00 weekday / \$17.00 weekday
<b>Late Day Child Price</b>	after 3pm \$15	N/A	N/A	\$8.50
<b>Late Day Price Adult</b>	after 3pm \$18	N/A	N/A	\$8.50
<b>Group Adult</b>	\$19.00 groups of 20 or more	15-99 Guests \$23.99/\$24.99 100 or more \$18.99/\$19.99	15-99 Guests \$28.99	\$12.50 groups 35 or more weekdays only
<b>Senior</b>	\$14.00	\$14.99 \$18.99	\$44.99	\$15.00 weekday / \$18.00 weekend
<b>Season Pass</b>	\$69.99	\$99.00 Online Sale \$79.99	\$79.99 \$99.99 sale \$40.00	\$75.00
<b>Parking Weekend/Holidays Season</b>	\$10.00 (Lake Lopez)	N/A	\$25.00	\$20.00
<b>Buy On-Line</b>	Yes, same prices as normal	Yes, same price as normal	Yes, \$41.99 Adult \$36.99 Child	Yes, same price
<b>Reservation Fee</b>	6%	None	N/A	\$10.00
<b>Cabana/Covered Area</b>	\$75 M-Th \$95 F-Sun	\$129-\$189	\$65-\$350	\$75.00 / 10 tickets minimum

**NO RECOMMENDATIONS AT THIS TIME. Review 2022**



### CASITAS TRAILER STORAGE AREA

Survey October 2019	H&H Storage	Ventura Harbor Boat and RV	Coast Self Storage	Fillmore Outdoor Storage	All Valleys	Lake Casitas Recreation Area Current price 2/21
<b>Location/Operating Agency</b>	Ventura, CA	Ventura, CA	Ventura, CA	Fillmore, CA	Simi Valley, CA	CMWD Casitas Trailer Storage
<b>Back in 32' and less</b>	\$150.00	\$150.00 up to 38'	\$122.00 up to 32' \$131.00 up to 35'	\$125.00 for 20'3 \$140.00 up to 30'	\$155.00 for 32' \$165 for 30'	\$105.00 up to 32' 25% below lowest rate
<b>Pull Thru 32' and more</b>	\$250.00 up to 45' \$275 - back in	\$160.00 up to 38'	\$144.00 up to 45' \$147.00 up to 45'	\$185.00 up to 50' \$145-\$260	\$190.00 up to 45' \$195.00	\$130.00 up to 45' 15% below lowest rate
<b>Dumping</b>	Yes, 3miles away at their repair yard	Yes	Yes	Yes, but not on site	Yes \$15 for customers	Yes
<b>Electricity</b>	No	No	No	No	No	No
<b>Covered</b>	No	No	No	No	No	No
<b>Washing site</b>	No	Yes	Yes	Yes-@ Simi location only	Yes, and detailing services available	No

Note: Kayak storage is \$1.00 per foot, with our smallest at 8 feet @\$1.00= \$8 a month = \$96 yr, and largest 12 feet @ \$1.00 = \$12 a month = \$144 yr. Storage racks are of equal size and can accommodate kayaks up to 18 feet. Recommend setting a flat rate of \$20 a month = \$240 yr @ 44 sites = \$10,560 yr. Recommend increase in trailer storage to meet market rates.

### CASITAS SNOWBIRD PROGRAM

Survey March 2021	Lake Cachuma	County of Ventura	Ventura RV Park	Lake Casitas current 2/21
<b>Location/Operating Agency</b>	Santa Ynez, CA	Ventura, CA	Privately Owned and Operated	LCRA Casitas Municipal Water District
<b>Basic Hook Up</b>	\$30.00/night	\$40.00/night up to a month	\$1,764/month \$1799-\$2765/mo (+ tax)	\$30 per night 60 night minimum *Re-evaluate in 2022 with possible increase for 22/23
<b>Deluxe Hook Up</b>	\$30.00/night	\$40.00/night up to a month	\$1,764/month \$1799-\$2765/mo (+ tax)	\$35 per night 60 night minimum *Re-evaluate in 2022 with possible increase for 22/23
<b>Executive Full Hook Ups</b>	\$30.00/night	\$40.00/night up to a month	\$1,764/month \$1799-\$2765/mo (+ tax)	\$40 per night 60 night minimum *Re-evaluate in 2022 with possible increase in 22/23

# MEMORANDUM

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TO: Recreation Committee  
From: Michael L. Flood, General Manager  
RE: Walk-In Customer User Fee  
Date: April 5, 2021

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## RECOMMENDATION:

The Committee consider this information and provide direction to staff.

## BACKGROUND:

During the February 2021 Recreation Committee Meeting, the Committee asked staff to look into the possibility of charging LCRA walk-in customers a fee to enter the park.

## DISCUSSION:

Charging for walk-in entry will create some logistical challenges both for staff and customers including current conflicts between current entry gate vehicle and walk-in traffic and the locating and staffing of a walk-in customer fee entrance. A 'Drive-In Only' alternative could possibly alleviate the need to create a walk-in fee entrance.

### Current Entry Gate Vehicle Traffic:

Currently our entrance is set up to receive vehicles in a regulated four lane configuration. This configuration allows staff to interact with customers from a booth while conducting the business of entering the Recreation Area. Staff is able to communicate and assist customers without the customer needing to exit their vehicle. If a customer needs further assistance, they are directed to the Guest Services building for resolution. All paid entry to the Recreation Area is done via this system. It works well because it was designed to keep customers in their cars during the entry to the Recreation Area.

This process also allows the use of a limited number of employees to operate the entrance to the Recreation Area, which can be adjusted depending on the number of campers expected on a given day or during specific planned events.

### Current Walk-In Customer Traffic:

Most of our walk-in customers park their vehicles in the front parking lot or on Santa Ana Rd. During the summer months when the Water Park is open there is a significant number of customers who park on Santa Ana Rd. and walk into the Waterpark area. During the winter months, most of our walk-in traffic seems to be local people coming up to the Recreation area to exercise by hiking, bicycling, or walking. Several of our walk-in winter customers bring their dogs with them while they exercise. We currently do not charge for these activities.

There are two pedestrian entrances near the Main Gate entrance. These entrances are north and south of the Main Gate. Walk in pedestrians also enter thru the Main Gate by utilizing the sidewalk in front of the Park Ranger office. During the summer season, staff has constant issues with pedestrians walking in and out of vehicle traffic that is waiting to enter the Recreation Area. This creates a hazardous condition for those walking in and out of traffic as well as the need for additional manpower trying to limit the pedestrian traffic walking in the vehicle traffic lanes.

### Collecting Fees from Walk-In Customers:

In order to charge for walk-in entry to the Recreation Area, a separate walk-in gate could be created to allow this to safely happen. This would require additional manpower and a fee structure for such an entry. The gate would need to be constructed in such a way as to not interfere with the entry gate vehicle traffic lanes.

### Drive-In Only Alternative:

A possible alternative would be to remove all parking outside the Recreation Area and have no walk-in entry at all. This would require all customers to drive into the Recreation Area via the front gate and park within the Park boundaries. This would be an improvement from a safety point of view as it would eliminate all pedestrians from walking in the traffic lanes. It would also maintain the security of the front gate allowing staff to assist all customers from within the booth. It is not anticipated this would require any additional staff once customers understand the drive-in only criteria.

## MEMORANDUM

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TO: Recreation Committee

FROM: Michael Flood; General Manager

RE: **Fishing Tournament and Moonlight Tournament/Night Fishing Fee Adjustments**

DATE: April 5, 2021

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### RECOMMENDATION

The Committee recommends these changes to the Board of Directors for approval.

### BACKGROUND

Staff was approached by tournament directors for both the American Bass Association and Rich Tauber Fishing Tournaments, both requesting a reduction in the fees associated with the Night Fishing Tournaments to \$30.00 per boat. They believe this reduction will increase the number of participants as it would increase the cash payouts. The current fee is \$71.00 per boat. This fee originated from a bid process in the early 2000's and included exclusive rights to conduct fishing tournaments at Lake Casitas, which is no longer offered. It also included a 20-boat minimum payment. The 20-boat minimum was eliminated in 2019 as the number of participants regularly fell below that threshold due to reduced prize payouts.

Our previous fee structure included a \$500.00 flat rate per Day Tournament, which equated to approximately \$10-15 per boat, depending on the number of participants. This fee was eliminated in 2009 as there was a significant decline in the number of tournament anglers due to vessel quarantine restrictions. Since then, Casitas has only collected a reimbursement for Staff time when an early open was requested by the Tournament Director.

Casitas occasionally hosts "Moonlight Fishing" as part of our Night Fishing program. This offering has been successful and provides non-tournament anglers the opportunity to fish from their boats at night on specified nights for an additional fee. This fee offset Staff

costs to perform the safety inspection, complete associated paperwork, and be available to retag boats upon exit during and after the event, which is outside of normal Day Use hours. The fee is \$30.00 per boat and has not been adjusted since the creation of the program in 2008. There have been increases in labor costs, however.

A survey of other local lakes has shown a wide range of fees. For example, Castaic Lake treats tournaments as Special Events, collecting 10% of gross revenue and does not honor annual decals. This results in pass holders being charged additional Day Use fees. In contrast, Lake Piru charges only for Staff time outside of normal business hours. They have found however, that the majority of tournament anglers do not have annual passes, generating additional revenue at the entrance gate.

The opposite is true, however, at Casitas, where all boats participating in either program are required to participate in the Tamper-Proof Tag Program and generally have annual passes, generating little to no additional revenue.

## **ANALYSIS**

Discussions with Staff have resulted in a consensus that standardizing the miscellaneous fee structures would be beneficial to all parties. It was agreed that there should be a set rate for conducting fishing tournaments where money or prizes are awarded. Staff acknowledged that the historical \$500.00 fee would be too high and is recommending a flat rate of \$250.00 per tournament, day or night, regardless of the number of participants. This fee would include the charge for Staff time for an early opening. Based on the number of tournaments held for the 2021 calendar year, this would generate approximately \$5,250.00 in additional revenue.

Additionally, staff believes that standardizing the Moonlight Fishing fee and per boat for Night Tournaments would be appropriate. Staff recommends both fees be set at \$45.00, an increase to the Moonlight Fishing Fee and a reduction to the Night Tournament per boat fee. This should result in additional Night Tournament activity and allow Casitas the opportunity to have additional Moonlight Fishing events with greater attendance. It is believed that there would be an increased interest for tournament anglers to “pre-fish” during our Moonlight events, generating additional revenue.

## **SUMMARY OF RECOMMENDATIONS**

It is recommended that the fees be adjusted as follows:

1. Implement a \$250.00 flat fee per Prize Tournament, day or night.
2. Reduce the \$71.00 per boat Night Tournament Fee to \$45.00 per vessel.
3. Increase the \$30.00 per boat Moonlight Fishing Fee to \$45.00 per vessel.

**CASITAS MUNICIPAL WATER DISTRICT  
LAKE CASITAS RECREATION AREA**

DATE: March 26, 2021  
 TO: Recreation Committee  
 FROM: Joe Martinez III, Park Services Manager  
 SUBJECT: Recreation Area Monthly Report for February 2021

Visitation Numbers

The following is a comparison of visitations\* for Feb 2021

	<b>Feb 2021</b>	<b>Feb 2020</b>	<b>Jan 2021</b>
Visitor Days	53,916	36,232	37,024
Camps	3,029	2,722	784
Cars	13,479	9,058	9,256
Boats	272	150	215
Kayaks & Canoes	7	2	8

Visitor Day Totals for Fiscal Year through Jan 2021	
2019/2020	381,376
2020/2021	455,733
%Change	+19%

\*The formulas for calculating the above attendance figures derived from the daily cash reports are as follows:

**Visitor Days** = Daily vehicles + 30 minute passes X 3 + café passes + attendance at special events + annual vehicle decals + replacement decals + campsites occupied + extra vehicles X 4

**Camps** = Campsites occupied + extra vehicles

**Cars** = Daily vehicles + 30 minute passes X 3 + café passes + attendance at special events + annual vehicle decals + replacement decals + campsites occupied + extra vehicles

**Boats** = Daily boats + overnight boats + annual decals + replacement decals

**Kayaks & Canoes** = Daily kayaks and canoes + overnight kayaks and canoes + annual kayaks and canoes

In January the State of California was under an emergency declaration, as well as the Casitas Municipal Water District due to the COVID-19 pandemic. The Lake Casitas Recreation Area responded to the State of California's protocol (stay home order), restricting all outdoor dining, activities, and overnight camping. All camping reservations, and events were canceled through January, with the exception of the Snowbird program. The Lake Casitas Recreation Area remained open for day-use (vehicles, boats, walk-in, bicycles).

On January 25<sup>th</sup>, the State of California lifted the restrictions allowing outdoor dining, activities, and overnight camping. Lake Casitas Recreation Area once again welcomed campers. The Recreation Area is currently open to day-use, (vehicles, boats, walk-in, and bicycles). All tent camping is currently at 50% capacity only, and all self-contained units (RV's trailers) are open at a 100%.

On February 6<sup>th</sup>, the American Bass Association (ABA) held a fishing tournament with 23 teams participating. Boat inspections remained active with 615 vessels tagged, and 18 out of 32 vessels passed inspection for new vessel tags.

Maintenance at LCRA is ongoing with the completion of the improved Wadleigh Arm trailhead. Staff began reconstructing the rest room and clearing out debris from the pit tank in campground Creekside. The Guest Services building extension also began and both projects should be completed in late March and or early April. The tree trimming, and mowing continues in preparation for Easter weekend.



The Casitas Water Adventure staff began evaluating and inspecting the Play Structure to identify problem or potential hazardous equipment. The Lazy River was swept and clean out and is being prepped for a partial fill to run the pumps, which have been off nearly two seasons. The Lagoon Chemtrol project and refurbishment was completed and will be ready for next season. CWA staff continues to assist maintenance with the daily COVID restroom cleaning.

Revenue Reporting

Fiscal year's total figures are reported when made available for the respective months (operations, concessions, Casitas Water Adventure, etc.) per the District's Financial Summary, generated by the Chief Financial Officer.

