

LEASE AGREEMENT BETWEEN THE CITY OF  
CUPERTINO AND THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA FOR THE ROLLING  
HILLS 4-H CLUB

THE LEASE AGREEMENT is made as of the \_\_\_ day of \_\_\_, 2019, by and between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA on behalf of its UC Agriculture and Natural Resources for its UC Cooperative Extension Santa Clara County (for the Rolling Hills 4-H Club), hereinafter called "Lessee," and CITY OF CUPERTINO, a municipal corporation, hereinafter called "Lessor."

Lessor and Lessee (together, "Parties") agree as follows:

1. LEASED REAL PROPERTY. Lessor hereby leases to Lessee, and Lessee hereby hires from Lessor, portions of that certain real property in the City of Cupertino, County of Santa Clara, State of California known as McClellan Ranch Preserve, described in Exhibit A, which is attached hereto and incorporated herein by reference (the "Premises"). The Premises includes, but is not limited to, the following: a four-pen pole barn with corrals, a three-pen pole barn with corrals, a three-run chicken coop, and a tack room.
2. TERM. The term of this lease shall be for the period commencing September 1, 2019, and ending August 31, 2024.
3. RENTAL. Lessee shall not pay rent to Lessor for the use and occupation of the Premises. Lessee may utilize additional City of Cupertino facilities including, but not limited to, the Environmental Education Center and Manta Vista Recreation Center for monthly club meetings at no additional charge. Lessee must request use of Manta Vista Recreation Center in writing, a maximum of twelve (12) months in advance. Use of all other City of Cupertino facilities must follow the rental and booking timeframe specific to the requested facility's Facility Use Policy. In lieu of paying rent, Lessee shall participate in community programs and provide access to Lessor-designated Parks and Recreation Staff who will lead tours of the 4-H area for school youth groups and community groups/classes, as set forth in Exhibit B.
4. USE OF PREMISES. The Premises shall be used by Lessee for the following purpose: Santa Clara County Cooperative Extension 4-H Program's animal husbandry, wildlife, and gardening projects. Premises are not to be used for any purpose which, in the opinion of the Lessor, is not in keeping with the "rural atmosphere" of the area.

Lessee shall not conduct or permit to be conducted any sale by auction on said Premises. Lessee shall not place or permit to be placed any projecting sign, marquee, or awning on the front of the said Premises without the written consent of Lessor, through Lessor's Director of Community Development; Lessee, upon immediate request of Lessor, shall immediately remove any sign or decoration which Lessee has placed or

permitted to be placed in, on, or about the front of the Premises, and which, in the opinion of the Lessor, is objectionable or offensive, and if Lessee fails so to do, Lessor may enter upon said Premises and remove such sign or decoration. Lessee shall not place or permit to be placed upon the said side wall, rear wall, or roof any sign, advertisement, or notice without the written consent of Lessor.

No other use of the Premises is permitted except with the advance written consent of Lessor. Lessee shall not quarry or remove stones therefrom, nor remove any earth or soil, nor destroy, cut, or remove any timber, trees, or firewood standing or lying thereon, nor permit others, without authority from Lessor, to commit any of the above acts. No hunting will be allowed on the Premises. Lessee shall not commit or permit the commission of any waste upon or permit or suffer any damage to be made to the Premises. Lessee shall contact the Lessor if there are pest concerns. Food and grains shall be stored in metal containers so as to not attract rodents.

5. INSPECTIONS AND ENTRY BY LESSOR/ACCESS OF PREMISES BY LESSEE. Lessee shall permit Lessor, and Lessor's agents, employees, and assigns, at all reasonable times and upon reasonable notice, to enter the Premises for the purposes of inspection or to make repairs, alterations, or additions to any other portion of said Premises, including the erection and maintenance of such scaffolding, canopies, fences, and props as may be required, or for the purposes of posting notices of non-liability for alterations, additions, or repairs to Lessor property, compliance with the terms of this lease, exercise of all rights under this lease, posting notices, and all other lawful purposes. Lessee shall supply Lessor, his agents, and assigns, with keys and other instruments necessary to enable entry onto the Premises. Lessor shall use its best efforts to minimize any disruption to Lessee's use of the Premises to accomplish such repairs, alterations, etc.

Lessee is granted right to limit right of access to the Premises to the following persons: persons directly involved with the projects of the Lessee on the Premises; members of the public who are participating in public tours conducted by Lessee; or staff designated by Lessor.

6. WATER AND WATER SYSTEMS.

6.1 Lessor shall provide and install adequate water and sewage facilities and water service which, in the opinion of the Lessor, are necessary for the adequate use of the Premises by the Lessee.

6.2 Lessee agrees to protect from leeching and trampling any manure produced on said Premises and not to allow it to be washed into water or drainage system.

7. UPKEEP. Lessee shall keep all canals and ditches now on said Premises or which may be constructed thereon during said term open and clean and otherwise in good order and condition as when received when this lease commenced. If Lessee, in the reasonable judgment of Lessor, shall fail to perform the work or any part thereof in this section covenanted and agreed to be done by the Lessee, and as herein provided, Lessor, at Lessor's

option, may re-enter in and upon said Premises without demand upon or notice to Lessee, and perform said work or any part thereof, and Lessee shall pay to Lessor, on demand, the reasonable costs thereof to Lessor.

8. TAXES AND UTILITIES. During the term of this lease, Lessee shall promptly pay, before delinquency, any and all taxes, and other governmental charges, if any, which shall be laid, assessed, levied, or imposed upon, or become due and payable and alien upon the Lessee, the leased Premises or any part thereof, including, but not limited to: (i) all taxes levied on the personal property, fixtures, and equipment of Lessee located on the Premises; and (ii) all license fees and other charges imposed upon Lessee's business or operations conducted thereon. Lessee shall also promptly pay all charges, if any, for electricity, light, power, and other utility services on the leased Premises, except water and garbage service as provided by Lessor.

9. CONDITION OF PREMISES. By entry under this lease, Lessee accepts the Premises in its present condition, except that Lessor agrees to perform all things which, in its opinion, are necessary to cause the plumbing on the Premises to be kept in conformance with the City of Cupertino Building Code. Lessor agrees to assume costs of capital repairs and improvements as deemed necessary by Lessor; Lessee shall be responsible for costs involved in use functions; and further agrees on the last day of the term or on sooner termination of this lease, to surrender the Premises and the appurtenances to Lessor in substantially the same condition as when received, reasonable use, wear, and damage by fire, act of God, or the elements excepted, and to remove all of Lessee's property from the Premises. There shall be no Lessee requirement to dismantle improvements upon termination of this lease. Lessor agrees to provide the Premises with regular garbage service.

10. ABANDONMENT. Lessee shall not vacate or abandon the Premises without giving Lessor ninety (90) days written notice. If Lessee does abandon, vacate, or surrender the Premises, or is dispossessed by process of law or otherwise, personal property belonging to Lessee and left on the Premises shall be kept for a reasonable time by Lessor, but in no event longer than fifteen (15) days after Lessor gives Lessee written notice to remove that property from the Premises, after which time, if it has not been reclaimed by Lessee, it may be treated by Lessor as abandoned. The abandonment of any portion of the Premises shall, in no way, affect the other provisions of this lease and the same shall remain in full force and effect.

11. INSURANCE HAZARDS. Lessee shall not use the Premises in such a way, nor permit others to use the Premises in such a way, nor do or permit acts that will increase the existing rate of insurance on the structures, trees, or other permanent crops on the Premises, or cause a cancellation of any insurance programs covering, in whole or in part, the structures, trees, and permanent crops; nor shall Lessee sell, or permit to be kept, used, or sold, in or about the Premises, any article that is prohibited by the standard fire insurance programs. Lessee shall comply with all requirements applying to the Premises of any applicable fire or liability insurance programs covering the structures, trees, and permanent crops.

12. TERMINATION BY LESSOR. In the event the Lessor sells or long-term leases McClellan Ranch Preserve, or any portion thereof, prior to the expiration of the term of this lease, Lessor or its successor shall have the right to terminate this lease, as to said Premises or portions thereof, as the case may be, upon at least one hundred twenty (120) days prior written notice to Lessee; provided, however, that in the event of such notice is given during the period January 1 to September 30 of any year, Lessee may remain in possession until the date of (a) October 1 of that year, or (b) the expiration of one hundred twenty (120) days following such notice.

13. OPERATING COSTS. Lessee shall pay, at Lessee's sole cost and expense, the cost of ground preparation, seed, fertilizer, labor, and all other things necessary and appropriate in connection with the permitted use of the leased Premises.

14. DISCLAIMER OF WARRANTY-SOIL SUITABILITY. Lessor makes no warranty of the Premises' soil's suitability for the uses permitted under this Lease.

15. OPERATING PRACTICES. Lessee shall conduct its operations on the leased Premises in a proper and farmer-like manner and in accordance with the customary industry practices for such operations. Lessee agrees to farm the leased Premises as above provided with due regard to conservation of the water and the soil.

16. MAINTENANCE OF PREMISES. Lessee shall keep and maintain all buildings and other improvements on said leased Premises in good condition and repair and free from fire hazards. Lessee shall maintain the interior and exterior of the pole barns and tack room, shall maintain the fences, corrals, windows, one sidewalk in front of the tack room, and any other appurtenances on the Premises, including but not limited to, the plumbing and electrical systems of said appurtenances, in good and sanitary condition, and repair during the term of this lease, ordinary wear and tear excepted. Stalls/pens and wooden fences shall be kept painted. Corrals and stalls/pens shall be cleaned on a regular basis--every day or every other day--and be kept reasonably free of odor. Lessee hereby waives all rights to make repairs at the expense of Lessor as provided in Section 1942 of the Civil Code of the State of California, and all rights provided for by Section 1941 of said Civil Code. Any improvement made to the Premises shall, upon installation, become the property of Lessor, with the exception of movable furniture and trade fixtures. Lessee shall give Lessor, through its Director of Parks and Recreation, written notice in advance of making any alteration, repair, addition, or improvement, and Lessor shall have the right to post and maintain on the Premises notice of non-responsibility in accordance with the applicable provisions of California law. Lessee shall obtain any and all permits required by any government jurisdiction which are necessary for carrying out Lessee's activities. Any and all repairs, improvements, and restoration performed by either party shall be in conformance with the City of Cupertino Building Code. Lessee shall keep the Premises free from any liens arising out of work performed, material furnished, or obligations incurred by Lessee.

17. DESTRUCTION. The term or status of this lease shall not be affected by the partial or total damage or destruction of any of the improvements on the leased Premises

by fire, earthquake, or other casualty. The provisions of Section 1932(2) and 1933(4) of the Civil Code of the State of California shall not apply to this lease, and Lessee waives the benefit of such provisions.

18. MECHANIC'S LIENS. Lessee shall keep the Premises free from any liens arising out of any work performed, material furnished, or obligations incurred by Lessee.

19. COMPLIANCE WITH LAW. Lessee shall, at its sole cost and expense, comply with all requirements of all governmental authorities, such as of the United States, State of California, City of Cupertino, County of Santa Clara, and any legal authority having jurisdiction, in force either now or in the future, affecting Lessee's use of the Premises, and shall faithfully observe in its use of the Premises all laws, rules, and regulations of these authorities, in force either now or in the future. The judgment of any court of competent jurisdiction, or the admission of Lessee in any action or proceeding against Lessee or its members, whether Lessor be a party thereto or not, that Lessee has violated any such ordinance or statute in the use of the Premises shall be conclusive of the fact as between Lessor and Lessee. Lessee shall comply with all applicable laws, statutes, ordinances, regulations, rules, and other governmental requirements relating to the storage, use, clean up, and disposal of toxic waste and/or hazardous materials.

Provided, however, that if during the term of this lease a change in, or addition of, law, regulation, or rules by these authorities requires correction or alleviation of naturally occurring conditions, including, but not limited to, weed and pest infestations, and disease conditions, that exist wholly or in part at the start of this lease, the correction or alleviation shall be performed by Lessee, but its cost shall be borne by both Lessor and Lessee in a proportion based on the extent to which the conditions required to be corrected exist at the time this lease starts.

20. INSURANCE.

20.1 Lessor's Insurance. Lessor, at its sole cost and expense, shall maintain fire and extended coverage in an amount equal to one hundred percent (100%) of the full replacement value of the Premises to conform with then current codes and the costs of demolition and debris removal, excluding land and the footings, foundations, and installations below the basement level.

20.2 Lessee's Insurance. Lessee shall comply with the Insurance Requirements, attached and incorporated here as Exhibit C. Lessee must provide satisfactory proof of insurance and maintain it for the lease term. Lessor will not execute the lease until Lessor has approved receipt of satisfactory certificates of insurance and endorsements evidencing the type, amount, class of operations covered, and the effective and expiration dates of coverage. Failure to comply with this provisions may result in Lessor terminating the lease.

21. INDEMNIFICATION.

21.1 Lessor's Obligation. Lessor shall indemnify, protect, defend, and hold harmless Lessee and its elected officials, officers, employees, volunteers, agents, representatives, and contractors from and against any and all claims, judgments, causes of action, damages, penalties, costs, liabilities, and expenses, including attorneys' fees and costs incurred in the defense of any such claim or any action or proceeding brought thereon, arising at any time during or after the term to the extent caused (directly or indirectly) by (i) any default in the performance of any obligation on Lessor's part to be performed under the terms of this lease; or (ii) any sole or active negligence or willful misconduct of Lessor or its officers, employees, invitees, or agents on or about the Premises or any portion thereof. Such indemnification shall be only in proportion to and to the extent that such claims, judgments, causes of action, damages, penalties, costs, liabilities, and expenses, including attorneys' fees and costs incurred in the defense of any such claim or any action or proceeding brought thereon arise from the negligent or intentional acts or omissions of Lessor, its officers, employees, invitees, or agents. The indemnification obligations of Lessor set forth in this Section 21.1 shall survive any expiration or termination of this lease.

21.2 Lessee's Obligation. Lessee shall indemnify, protect, defend, and hold harmless Lessor and its elected officials, officers, employees, volunteers, agents, representatives, and contractors from and against any and all claims, judgments, causes of action, damages, penalties, costs, liabilities, and expenses, including attorneys' fees and costs incurred in the defense of any such claim or any action or proceeding brought thereon, arising at any time during or after the term as a result (directly or indirectly) of or in connection with (i) any default in the performance of any obligation on Lessee's part to be performed under the terms of this lease; (ii) use of the Premises by Lessee or its officers, employees, agents, students, invitees, or guests; or (iii) loss of, injury, or damage to, or destruction of personal property or fixtures on or about the Premises. Such indemnification shall be only in proportion to and to the extent that such claims, judgments, causes of action, damages, penalties, costs, liabilities, and expenses, including attorneys' fees and costs incurred in the defense of any such claim or any action or proceeding brought thereon arise from the negligent or intentional acts or omissions of Lessee, its officers, agents, employees, students, invitees, or guests. The indemnification obligations of Lessee set forth in this Section 21.2 shall survive any expiration or termination of this lease.

21.3 Waivers of Subrogation. Lessor and Lessee each hereby waive any right of recovery against the other due to loss of or damage to the property of either Lessor or Lessee when such loss of or damage to property arises out of the acts of God or any of the property perils whether or not such perils have been insured, self-insured, or non-insured.

22. REMEDIES.

22.1 If Lessee breaches this lease and in the event Lessee does not cure said breach or make reasonable efforts to cure the breach, Lessor shall have the right of reentry after having given ten (10) days' notice, and the right to take possession of all crops, harvested or unharvested, and livestock and farm equipment and to remove all persons and property from barns or elsewhere at Lessee's expense and for its account. Lessor, at its election, shall become the owner of all crops of which he has so taken possession and, except when it elects to proceed under option (c) of Section 22.2 below, shall not be obligated to compensate Lessee for them.

22.2 If Lessor elects to reenter as provided in Section 22.1, or to take possession under legal proceedings or under any notice provided for by law:

a. Lessor may terminate this lease; or

b. Lessor may from time to time, without terminating this lease, relet the entire or any part of the Premises for such terms (which may extend beyond the term of this lease) and at such rentals and other conditions as Lessor in its sole discretion deems advisable. Lessor also has the right to make alterations and repairs to the Premises; or

c. Lessor, or its agents or assigns, or a receiver appointed at this instance may (1) perform Lessee's duties under this lease, including such things as necessary in Lessor's opinion to carry out Lessee's operations contemplated by the lease, (2) charge the proceeds from the sale of the crops or livestock with all reasonable costs of maintenance and husbandry, and (3) divide the remainder of the proceeds with Lessee in the same proportions as the proceeds would have been divided between Lessor and Lessee if Lessee had faithfully performed under this lease. If the costs exceed the proceeds, the deficiency shall be borne by Lessor and Lessee in the same proportions as would have been divided between Lessor and Lessee if Lessee had faithfully performed under this lease; or

d. Lessor may exercise all other rights that become available to it if Lessee breaches or defaults in its obligation under this lease.

22.3 The rights and remedies given to Lessor in this Lease are distinct, separate, and cumulative remedies, and no one of them, whether or not exercised by Lessor, shall be deemed to be in exclusion of any of the others herein or by law or equity.

22.4 No reentry or taking possession of the premises by Lessor shall be construed as an election by Lessor to terminate this lease unless a written notice of such an intention is given to Lessee or the lease is declared to be terminated by a court of competent jurisdiction.

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

23. INSOLVENCY; RECEIVER. Any one of the following constitutes a breach of this lease by Lessee: (a) the appointment of a receiver to take possession of all or substantially all assets of Lessee, or (b) a general assignment by Lessee for the benefit of creditors.

24. HAZARDOUS MATERIAL.

24.1 INDEMNITY. Lessee shall not cause or permit any Hazardous Material (defined below) to be brought upon, kept, or used in or about the Premises by Lessee, its agents, employees, contractors, volunteers, or invitees without the prior written consent of Lessor (which Lessor shall not unreasonably withhold as long as Lessee demonstrates to Lessor's reasonable satisfaction that such Hazardous Material is necessary or useful to Lessee's permitted activities on the Premises and will be used, kept, and stored in a manner that complies with all laws regulating any such Hazardous Material so brought upon or used or kept in or about the Premises). If Lessee breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Materials on the Premises caused or permitted by Lessee results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs for which Lessee is legally liable, then Lessee shall indemnify, defend, and hold Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, damages for the loss or restriction on use of the Premises or of any amenity of the Premises and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) that arise during or after the lease term as a result of such contamination but only in proportion to and to the extent that such claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, damages for the loss of restriction on use of the Premises or of any amenity of the Premises and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) arise from the negligent or intentional acts or omissions of Lessee, its officers, agents, employees, or invitees. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or permitted by Lessee results in any contamination of the Premises, Lessee shall promptly take all actions at its sole expense as may be required by any governmental agency; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld.

24.2 Lessee shall further be liable to Lessor for any damage to the Premises caused by contamination by Hazardous Material, including but not limited to diminution in value of the Premises and damages arising from any adverse impact on marketing of

the Premises but only in proportion to and to the extent that such contamination by Hazardous Material arises from the negligent or intentional acts or omissions of Lessee, its officers, agents, employees, or invitees.

24.3 As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste, which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as "hazardous substance" under California law, (ii) petroleum, (iii) asbestos, (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1321), (v) defined as "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C., § 6901 et seq. (42 U.S.C. § 6903), or California Health and Safety Code 25100 et seq., (vi) defined as "hazardous substance" pursuant to section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., (42 U.S.C. § 9601), or (vii) defined as a "regulated substance" pursuant to subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks, 42 U.S.C. § 6991, et seq.).

25. ATTORNEYS' FEES. In any action or proceeding by either party to enforce this lease or any provision thereof, the prevailing party shall be entitled to all costs incurred and to reasonable attorneys' fees.

26. ASSIGNMENT OR SUBLETTING. Lessee shall not assign this lease, or any rights under it, and shall not sublet the entire or any part of the Premises, or any right or privilege appurtenant to the Premises, or permit any other person (the agents and servants of Lessee excepted) to occupy or use the entire or any portion of the Premises; without first obtaining Lessor's written consent. A consent to one assignment, subletting, occupation, or use by another person is not a consent to a future assignment, subletting, occupation, or use by another person. Any assignment or a subletting without Lessor's consent shall be void and shall, at Lessor's option, terminate this lease. No interest of Lessee in this lease shall be assignable to operation of law without Lessor's written consent.

27. NOTICES. All notices must be sent in writing to the persons below, which will be considered effective on the date of personal delivery or the date confirmed by reputable overnight delivery service, on the fifth calendar day after deposit in the United States Mail (postage prepaid, registered or certified), or the next business day following electronic submission:

LESSOR: City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014  
Attention: Public Works Department  
Email: [Public\\_Works@cupertino.org](mailto:Public_Works@cupertino.org)

LESSEE: The Regents of the University of California  
UC Cooperative Extension Santa Clara County  
Attn: Susan Weaver  
1553 Berger Drive Bldg. 1  
San Jose, CA 95112  
Email: [sjweaver@ucanr.edu](mailto:sjweaver@ucanr.edu)

With copy to: UC Agriculture & Natural Resources  
Attn: Ryan Harms, Controller's Office  
1111 Franklin St., 10<sup>th</sup> Floor  
Oakland, CA 94607

28. SURRENDER AND RESTITUTION. Upon termination of this lease in any manner, either wholly or in part, whether at the expiration of the full term or at any earlier time, other than as outlined in Section 12 as herein provided, Lessee shall surrender and deliver to Lessor the quiet and peaceable possession of said leased Premises, including improvements made thereon, or that portion thereof as to which this Lease shall be terminated, including improvements made thereon, in substantially the same condition as when received, or in the case of improvements made thereon, reasonable wear and tear excepted. Lessee has no requirement to dismantle improvements.

29. LEGAL EFFECT. All covenants of Lessee contained in this lease are expressly made conditions.

The provisions of this lease shall, subject to the provision on assignment, apply to and bind the heirs, successors, executors, administrators, and assign of all parties to this lease; and all parties executing the lease as Lessee shall be jointly and severally liable under it.

The titles or headings to the sections of this lease are not a part of this lease and shall have no effect on the construction or interpretation of any part of this lease.

30. SEVERABILITY. If any portion of this lease is found to be illegal, invalid, or unenforceable, the remaining portions of this lease shall continue in full force and effect.

[All signatures appear on the following page.]

**IN WITNESS WHEREOF**, the parties have caused the lease to be executed.

**LESSEE:**  
**THE REGENTS OF THE UNIVERSITY**  
**OF CALIFORNIA**

**LESSOR:**  
**CITY OF CUPERTINO**  
A Municipal Corporation

By \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

HEATHER M. MINNER  
Cupertino City Attorney

**ATTEST:**

\_\_\_\_\_

GRACE SCHMIDT  
City Clerk

EXHIBIT A

McClellan Ranch Preserve



Approximate  
Limits of 4-H  
Use Area

22201

22191

22204

McClellan Road

Tressler Ct

705

## **EXHIBIT B**

### **Programs Services to be provided to the Cupertino Community by the Rolling Hills 4-H Club include:**

- During the spring and fall season (mid-September-mid November and April through the first week of June), school groups will visit the Premises to view the animals from the Stevens Creek Trail, stop briefly to look at the animals on their way to or from the creek, and talk about 4-H opportunities and their barn tours. (Approximately 1,879 students, 78 teachers, and 387 parents).
- Participate in approximately 26 school tours annually for parent/tot, preschool, and kindergarten group enrichment.
- Summer camps: Nature Camp, Summer Science Fun, and Preschool Adventures (10 visits to the 4-H area, and 285 participants plus staff and volunteers per summer season).
- After school classes (10-12 times /year, and 100 -144 participants).
- Thursday evening nature programs (40 participants).
- Accommodate groups that visit the bee yard and stop by to observe the hives.
- Participate in the family Bug Programs and Bees and Honey programs offered through Recreation and Community Services (50-60 participants).

### **Community Programs:**

- 4-H tours that occur during SCVAS Wildlife Education (650-750 participants).
- Monthly barn tours for the public run through 4-H.
- Viewing of the 4-H animals from outside of the fenced area.
- Both the San Mateo and the Santa Clara Valley Beekeepers Guilds hold 3-4 classes at McClellan Ranch each year, and the 50-75 class participants visit the 4-H hives.

## **EXHIBIT C**

### **Insurance Requirements**

Lessee shall procure prior to execution of this lease and maintain for the duration of the lease, at its own cost and expense, the following insurance policies and coverage or maintain a program of self-insurance that meets the coverages and minimum limits referenced below.

#### **INSURANCE POLICIES AND MINIMUMS REQUIRED**

1. **Commercial General Liability** (CGL) for bodily injury, property damage, personal injury liability for premises operations, products and completed operations, contractual liability, and personal and advertising injury with limits no less than **\$2,000,000** per occurrence (ISO Form CG 00 01). If a general aggregate limit applies, either the general aggregate limit shall apply separately to this lease/location (ISO Form CG 25 03 or 25 04) or it shall be twice the required occurrence limit.
  - a. It shall be a requirement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be made available to the Additional Insured and shall be (i) the minimum coverage/limits specified in this agreement; or (ii) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.
  - b. Additional Insured coverage under Consultant's policy shall be "primary and non-contributory," will not seek contribution from Lessor's insurance/self-insurance, and shall be at least as broad as ISO Form CG 20 01 (04/13).
  - c. The limits of insurance required may be satisfied by a combination of primary and umbrella or excess insurance, provided each policy complies with the requirements set forth in this lease. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of Lessor before the Lessor's own insurance or self-insurance shall be called upon to protect Lessor as a named insured.
2. **Automobile Liability**: ISO CA 00 01 covering any auto (including owned, hired, and non-owned autos) with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation and Employer's Liability Insurance**: As required by the State of California.
4. **Sexual Abuse/Molestation**: Insurance or the equivalent as required for activities/services involving minors, (i.e., after school activities, recreational programs, athletics, study/training events and transportation of minors). Coverage may be included under General Liability or be obtained in a separate policy, such as Educators Legal Liability (ELL) policy, with a limit of no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, it must apply separately to this lease or be twice the required occurrence limit.

## **OTHER INSURANCE PROVISIONS**

The aforementioned insurance shall be endorsed and have all the following conditions and provisions:

### ***Additional Insured Status***

The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers (“Additional Insureds”) are to be covered as additional insureds on Lessee’s CGL policy. General Liability coverage can be provided in the form of an endorsement to Lessee’s insurance (at least as broad as ISO Form CG 20 10 (11/ 85) or both CG 20 10 and CG 20 37 forms, if later editions are used).

### ***Primary Coverage***

Coverage afforded to Lessor/Additional Insureds shall be primary insurance. Any insurance or self-insurance maintained by Lessor, its officers, officials, employees, or volunteers shall be excess of Lessee’s insurance and shall not contribute to it.

### ***Notice of Cancellation***

Each insurance policy shall state that coverage shall not be canceled or allowed to expire, except with written notice to Lessor thirty (30) days in advance or ten (10) days in advance if due to non-payment of premiums.

### ***Waiver of Subrogation***

The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Lessor for all work performed by Lessee, its employees, agents, and subconsultants. This provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

***Deductibles and Self-Insured Retentions*** - Intentionally Omitted.

***Acceptability of Insurers*** - Intentionally Omitted.

### ***Verification of Coverage***

Lessee must furnish acceptable insurance certificates and mandatory endorsements (or copies of the policies effecting the coverage required by this Contract), and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements prior to commencement of the lease. Lessor retains the right to demand verification of compliance at any time during the lease term.

### ***Higher Insurance Limits***

If Lessee maintains broader coverage and/or higher limits than the minimums shown above, Lessor shall be entitled to coverage for the higher insurance limits maintained by Lessee.

### ***Adequacy of Coverage***

Lessor reserves the right to modify these insurance requirements/coverage based on the nature of the risk, prior experience, insurer, or other special circumstances, with not less than ninety (90) days prior written notice.