



AGENDA
MEETING OF THE WARNER RANCH COMMITTEE
VISTA IRRIGATION DISTRICT
THURSDAY, APRIL 29, 2021 – 10:00 AM
1391 Engineer Street, Vista, CA 92081

COVID-19 RESPONSE PROCEDURES FOR MEETING
NOTICE FOR PARTICIPATION

In light of Governor Newsom's Executive Orders N-29-20 and N-33-20, and guidance from the County of San Diego, State of California, and Centers for Disease Control, please be advised that members of the public will not be able to attend this meeting in person. Executive Order N-33-20 requires persons "stay home or in their place of residence except as needed to maintain continuity of operations..." of critical infrastructure. As welcome as public attendance is at Vista Irrigation District Board of Directors meetings, it does not appear to fit this exception, and Vista Irrigation District encourages compliance with the Governor's Executive Order.

Members of the public may participate through Vista Irrigation District's teleconferencing line. The phone number and applicable pass code for such participation is as follows: Phone (877) 873-8018; Pass Code 474698#.

Vista Irrigation District's teleconferencing line capacity is limited and not all parties who wish to participate through this method may be able to do so. Phone participants are asked to place calls to this line at or before the scheduled start time of the meeting, so the District staff can organize order of speakers and assure the ability of all who wish to participate. Please also note phone or data charges from your carrier may apply to your use of this option.

To maintain orderliness in proceedings, phone participants will be asked to identify themselves, their address, and the item on the agenda they wish to address. Telephone participants are asked to limit background noise during telephonic participation (with muting features, if available) and to maintain proper decorum suitable to the conduct of public meetings at all times. Telephone participants may not speak until the appropriate time on the agenda and only when recognized by the Board President.

Members of the public may also address the Board of Directors by email; however, such email communication must be received at or before the time of the commencement of the meeting. The email address to use for such communications is as follows: BoardSecretary@vidwater.org.

Please also be advised that one or more members of the Vista Irrigation District Board of Directors or staff may participate in this meeting by teleconference or other digital means consistent with Executive Order N-29-20.

Vista Irrigation District appreciates your understanding as we all work through the unprecedented challenges posed by COVID-19. In compliance with the Americans with Disabilities Act, if special assistance is needed to participate in the Board meeting telephonically, please contact the Board Secretary during regular business hours at (760) 597-3128. Notification received 48 hours before the meeting will assist Vista Irrigation District in making reasonable accommodations.



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VISTA IRRIGATION DISTRICT
THURSDAY, APRIL 29, 2021 – 10:00 AM
1391 Engineer Street, Vista, CA 92081

1. CALL TO ORDER

2. ROLL CALL

3. CONSIDER APPROVAL OF AGENDA

In the case of an emergency, items may be added to the Agenda by a majority vote of the Committee. An emergency is defined as a work stoppage, a crippling disaster, or other activity that severely imperils public health, safety, or both. Also, items that arise after the posting of the Agenda may be added by a unanimous vote of the Committee.

4. ORAL COMMUNICATIONS

Members of the public may address the Committee on items not appearing on the posted agenda, which are within the subject matter jurisdiction of the Committee. Speakers are asked to limit their comments to five (5) minutes; the total time allowable for all public comment on items not appearing on the agenda at any one meeting may be limited. Comments on items listed on the agenda will be taken before or during discussion of the agenda item. Members of the public desiring to address the Committee are asked to complete a speaker's slip available on the table near the entrance of the Boardroom and present it to the Board Secretary prior to the meeting.

5. PROPOSAL FOR MATAGUAY GRAZING LICENSE

Recommendation: Consider a request from a private party, Dan Lewis, to present an unsolicited proposal to the Board in competition with the existing licensee for the grazing license on the Mataguay pastures of the Warner Ranch.

6. COMMENTS BY COMMITTEE MEMBERS

This item is placed on the agenda to enable individual Committee members to convey information not requiring discussion or action.

7. ADJOURNMENT

*NOTE: ITEMS ON THE AGENDA MAY BE TAKEN OUT OF SEQUENTIAL ORDER AS
THEIR PRIORITY IS DETERMINED BY THE COMMITTEE*

- *The agenda package and materials related to an agenda item submitted after the packet's distribution to the Committee, are available for public review outside the lobby of the District office during normal business hours.*
- *Agendas and minutes are available at www.vidwater.org.*
- *VID Committee meetings are held on an as needed basis.*

AFFIDAVIT OF POSTING

I, Lisa R. Soto, Board Secretary of the Vista Irrigation District, hereby certify that I posted a copy of the foregoing agenda outside the lobby of the District office at 1391 Engineer Street, Vista, California at least 72 hours prior to the meeting, in accordance with Govt. Code Sec. 54954.2(a).

Date: April 26, 2021

Lisa R. Soto, Board Secretary



**WARNER RANCH
COMMITTEE REPORT**

Agenda Item: 5

Meeting Date: April 29, 2021
Prepared By: Don Smith
Approved By: Brett Hodgkiss

SUBJECT: PROPOSAL FOR MATAGUAY GRAZING LICENSE

RECOMMENDATION: Consider a request from a private party, Dan Lewis, to present an unsolicited proposal to the Board in competition with the existing licensee for the grazing license on the Mataguay pastures of the Warner Ranch.

PRIOR BOARD ACTION: The Board approved the renewal of the grazing license for the Mataguay pastures with the Mendenhall Cattle Company on October 18, 2017.

FISCAL IMPACT: Unknown.

SUMMARY: Mr. Lewis has been interested in obtaining the grazing license on the Mataguay pastures of the Warner Ranch for several years and has had several conversations about the matter with District staff. In April 2020, Mr. Lewis wrote the Board concerning his interest; the letter (attached) was provided to the Board on May 13, 2020. Mr. Lewis has recently sent another letter to the General Manager asking that his proposal be placed on the Board agenda for consideration.

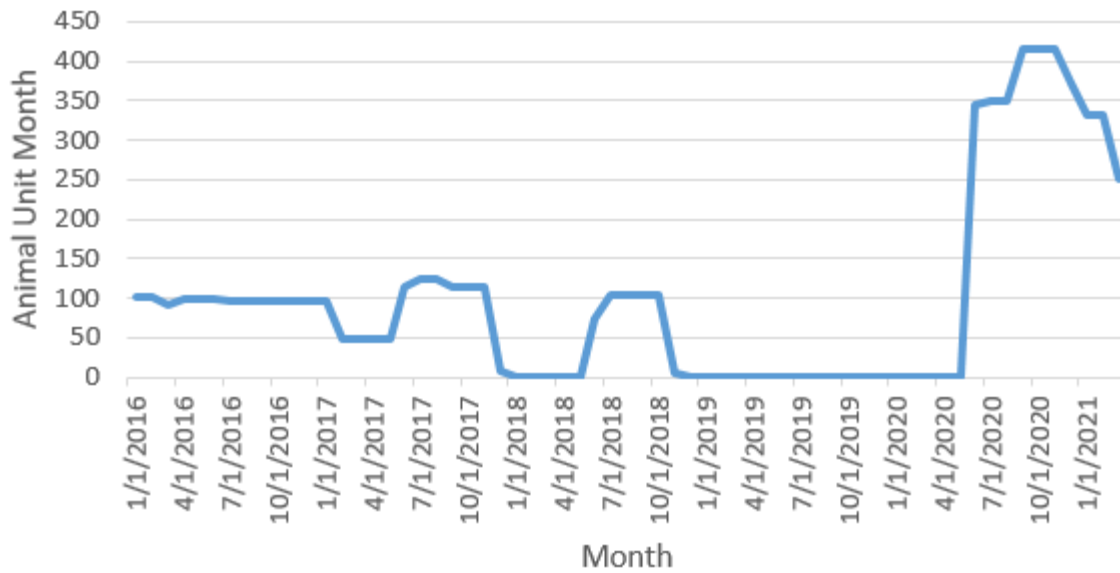
DETAILED REPORT: As described in his letters, Mr. Lewis believes he can offer license fee revenue that is substantially higher than what is generated by the existing licensee while grazing fewer cattle on the Mataguay pastures. Mr. Lewis has floated several concepts about his plans; however, he admits that he has not worked out all of the details. Mr. Lewis hopes to develop a plan that will be consistent with the District's goals and mission.

Staff has explained to Mr. Lewis that the current license runs year-to-year and the District does not have plans to solicit bids for the Mataguay grazing license at present. Furthermore, staff has informed Mr. Lewis that he would have an opportunity to submit a proposal (with all other interested parties) should the District seek a new grazing licensee for the Mataguay pastures at a future date. Mr. Lewis believes that his ranching experience, grazing philosophy and economic inducements are compelling and has requested an opportunity to present his unsolicited proposal to the Board of Directors.

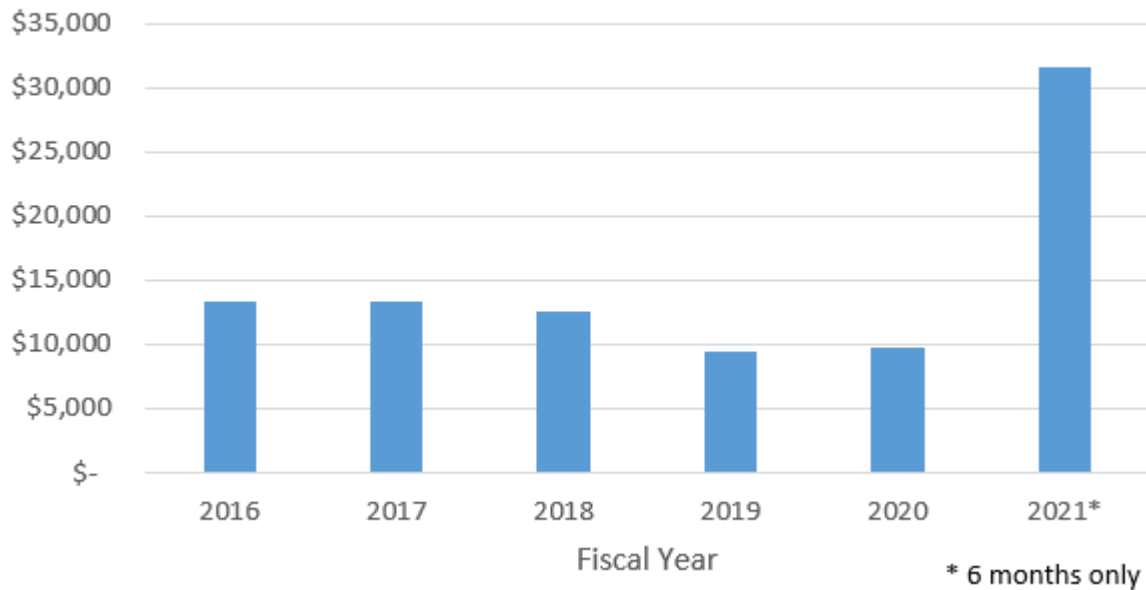
Effective May 20, 2020, all the corporate shares of the Mendenhall Cattle Company were sold to Landscape Function Management, LLC (LFM), making LFM the licensee of the grazing license for the Mataguay pastures of the Warner Ranch. Kevin Muno, President of LFM, has modified traditional grazing patterns in the Mataguay pastures, adopting "mob grazing" or "regenerative ranching" practices. This grazing practice involves intensive grazing periods followed by extended rest periods on a rotational basis over the licensed pastures. Proponents believe this grazing practice breaks up the soil and distributes organic matter deeper into the soil, improving moisture penetration and retention, and leading to higher forage yield. LFM has increased the number of cattle running on the pastures over historical levels and has had to provide supplemental forage and water for cattle. LFM has invested considerable time and effort in putting in new pasture fencing to accommodate rotational grazing patterns.

The following graphics show recent trends in cattle head counts and license revenue on the Mataguay pastures.

Mataguay License Cattle Head Count



Mataguay License Revenue



ATTACHMENTS:

- Letter from Dan Lewis to Board dated April 29, 2020
- Letter from Dan Lewis to General Manager dated March 29, 2021
- Grazing License Agreement Dated October 23, 2017
- First Amendment to Grazing License Agreement dated September 29, 2020

Circle Bar CCR

April 29, 2020
Dan Lewis
Danantoniolewis@gmail.com
(760)484-7939

Members of the Board - Vista Irrigation District Supervisors
1391 Engineer Street
Vista, CA 92081

✓
CC: Paul Dorey
RE: Mataguay Lease

Dear Members of the Board:

My name is Dan Lewis. I managed the Warner Ranch from 1998 to 2001. I am contacting you now regarding the Mataguay Lease in Warner Springs.

In my 30+ years running cattle, I now have a unique design on how to maximize profits in a cow business. This, in turn, would allow me to afford, and offer, more than double the current fees paid for this lease.

Having previously managed the Warner Ranch, I am familiar with the springs, the neighbors, and the fence line of this lease. I have noticed all are in need attention. I am completely confident that all details can be resolved to any/all satisfaction. Working many ranches in many states has provided me both a competent knowledge base and a deep appreciation for the land.

With my experience managing, raising cattle and horses, I doubt that you could find a better relationship when it comes to the Mataguay Lease.

Respectfully,


May 1 2020

Dan Lewis

CC: File

RECEIVED

APR 07 2021

VISTA IRRIG. DIST.

March 29, 2001

Vista Irrigation District:
Brett Hodgekiss, General Manager
1391 Engineer Street
Vista, CA 92081

RE: Mataguay Lease

I am writing looking to be added to the board agenda concerning the Mataguay Lease. I have been questioning, and interested in, this lease before the Medenhall herd sold.

I am interested in running 35 head of cows with 5 bulls year-round. No overgrazing will occur. Only in the spring, with good grass will there be calves. Having truly custom beef would allow me to offer considerably more a year on this lease. Any insurance needed would be provided.

Having managed the whole Warner Ranch from 1998 thru 2001, I know the springs, fence lines, and the neighbors. I would appreciate the time to make an offer to the board.

I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Lewis", with a long, sweeping flourish extending to the right.

Dan Lewis
760-484-7939

GRAZING LICENSE AGREEMENT

This License Agreement ("License") is made and entered into as of October 23, 2017 by and between the **VISTA IRRIGATION DISTRICT**, a political subdivision of the State of California organized under the Irrigation District Law, California Water Code Section 20500, et seq. ("VID"), and **MENDENHALL CATTLE COMPANY, INC.**, a California Corporation as Licensee ("Licensee").

PART I

FUNDAMENTAL LICENSE TERMS

1.1 License. VID hereby issues to Licensee a non-exclusive License to enter upon the following real property owned by VID, for the purpose or activity specified in Paragraph 1.1.2:

1.1.1 Licensed Property. Approximately 8,100 acres, located on the Warner Ranch, as described attached hereto as Part IV and incorporated herein by this reference ("Premises").

1.1.2. Use of Premises. For and during the term of this License, Licensee shall use the Premises solely and exclusively for the pasturage and grazing of cattle.

1.2 Term. This License shall commence on January 1, 2018 ("Commencement Date") and shall continue from year to year unless either party gives notification to modify or terminate the License in its entirety pursuant to Paragraph 2.8.

1.3 Termination.

1.3.1 This License may be terminated by either party with a 180 day written notice of intent to terminate the License.

1.3.2 The Licensee may elect to terminate this License with 90 days written notice if, through no fault of its own, one-third or more of the Premises have been burned or otherwise made unusable for the purpose intended.

1.3.3 Licensee shall be in material default under the terms of this Agreement if Licensee fails to pay any amount due under this Agreement or fails to perform or observe any term, covenant, or undertaking in this Agreement to be performed or observed by it and such default continues for 30 calendar days after such performance is due. If an event of default occurs under this Agreement, VID may, at its option, terminate this Agreement at any time thereafter by giving notice to the Licensee at least five business days before the termination is to be effective. If the Agreement is terminated under this provision, Licensee shall remove all its personal property from the Property within 20 calendar days. If such removal is not completed within the 20 days, VID may, at its option, take such measures as VID, in its sole discretion, deems necessary to accomplish such complete removal and the expenses therefor will be paid by Licensee.

1.4 License Consideration.

1.4.1 Base License Fee. Licensee shall pay to the VID an initial annual fee (the "Base License Fee") for the use of the Premises \$9,360 per year in 2018, payable in advance in monthly installments of \$780 for each and every month of 2018, and indexed to the Consumer Price Index for all subsequent years as described below. (\$780 is equivalent to 60 AUM @ \$13.00 per month.) "AUM" shall mean the forage consumed by one mature animal unit (weighing 700 pounds or more) in one month, or "Animal Unit Month". Any weaned animal weighing less than 700 pounds shall be considered one-half AUM. Commonly, a weaned calf shall be deemed one-half AUM until it reaches nine months of age, at which time and thereafter it shall be deemed a full AUM. A cow and her unweaned calves together shall be considered one AUM. Beginning in 2019 and for every subsequent year, the yearly Base License Fee (and supplemental license fee, as described below) shall be adjusted as indexed for inflation. The index shall be taken as the first half semiannual average (January through June) of the Consumer Price Index, All Urban Consumers, San Diego published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). For the first year, the value of the Index is 281.561; subsequent base and supplemental license fees shall be adjusted by the percentage change in the value of the Index. In the event that the United States ceases to publish or maintain the Index, upon written notice to Licensee, VID shall use a similar index published by the United States or, if none is published by the United States, a similar index published by State of California or another governmental entity.

1.4.2 Supplemental License Fee. At the end of each license year, the total AUM count for each of the previous 12 months shall be aggregated. If the total thus derived exceeds 720 (12 months x 60 AUM), a supplemental license fee of \$13.00 per AUM per month (in 2018) for each AUM-month over 720 during the preceding 12 months shall be paid. Licensee shall furnish VID a written report of the AUM count for each month which shall accompany the Base License Fee payment. Beginning in 2019, this supplemental license fee shall be adjusted for inflation as described in Paragraph 1.4.1.

1.5 Notices and Payments. All payments, notices and other writings required to be delivered under this License to either party shall be delivered in accordance with the provisions of Part II ("General Provisions"), to VID at the address set forth in Part II, and to Licensee at the address set forth in this Part I.

1.6 Attachments. This License incorporates by reference the following Attachments to this License:

Part I:	Fundamental License Terms
Part II:	General License Provisions
Part III:	Special License Provisions
Part IV:	Premises

1.7 Integration. This License represents the entire understanding of VID and Licensee as to the License and all other matters contained herein. No prior oral or written understanding shall be of any force or effect with regard to those matters covered by this License. This License

supersedes and cancels any and all previous negotiations, arrangements, agreements or understandings, if any, between the parties, and none shall be used to interpret this License.

IN WITNESS WHEREOF, the parties have executed and entered into this License as of the date first set forth above.

<p>VISTA IRRIGATION DISTRICT</p> <p>By: <u>Eldon Boone</u> Eldon Boone General Manager</p>	<p>MENDENHALL CATTLE COMPANY, INC A California Corporation</p> <p>By: <u>Jenna Mendenhall</u> Name: Jenna Mendenhall Title: President</p> <p>By: _____ Name: _____ Title: _____</p> <p>Licensee Information:</p> <p>Address for Notices: 26439 Highway 76 Santa Ysabel, CA 92070</p> <p>Telephone Number: (760) 782-3503 Facsimile Number: (760) 782-9224</p>
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PART II

GENERAL LICENSE PROVISIONS

2.1 Payment of License Fee

2.1.1 Timing of Payment. The payments to VID shall be made on or before the fifteenth day of each calendar month, and any payment or portion thereof made after that date shall be considered late. The Licensee shall pay to VID a late charge as set forth in Paragraph 2.2.1.

2.1.2 Transmittal of Payments. Licensee shall make all License Fee payments, and pay all other sums due under this License, in lawful money of the United States, by check payable to "VISTA IRRIGATION DISTRICT," and shall personally deliver or mail all payments without any notice or demand to VID at the address set forth in Paragraph 2.8.1 below. Licensee assumes all risk of loss or late payment if any payment is made by mail.

2.1.3 No Offsets. All License Fees and other sums due under this License shall be paid without offset or deduction, and shall be deemed payments on account. Neither the payment by Licensee nor the acceptance by VID of any License Fee or other sum in an amount which is less than the amount due and payable pursuant to this License, nor the issuance of a monthly statement showing as due and payable an amount less than is properly due and payable pursuant to the terms of this License, shall constitute an agreement by VID modifying this License or a waiver of VID's right to receive all sums provided for in this License. No endorsement or statement on any check or any letter accompanying any check or payment shall be deemed an accord or satisfaction, and VID shall accept all checks and payments from Licensee without prejudice to VID's right to recover the balance of the amount due or to pursue any other remedy in this License or otherwise provided by law.

2.2 Charges for Payment of License Fee

2.2.1 If any payment of any License Fee or any other sum due VID is not received by VID on or before the fifteenth day of each calendar month, Licensee shall be deemed delinquent in its License Fee payment and a late charge of one and one-half percent (1.5%) of the delinquent amount shall become immediately due and payable to VID. An additional charge of one and one-half percent (1.5%) of such delinquent License Fee payment (excluding late charges) shall be added for each additional calendar month (or portion thereof) that the delinquent sum remains unpaid.

2.2.2 Licensee and VID hereby acknowledge and agree that such late charges do not represent and shall not be deemed to be an interest payment, but that such late charges represent a fair and reasonable estimate of the costs and expenses that VID will incur by reason of Licensee's late payment.

2.2.3 Acceptance by VID of any delinquent License Fee payment or late charge shall in no way constitute a waiver of Licensee's default with respect to such overdue and delinquent payment, or in any way impair, prevent or restrict VID from exercising any of its rights or remedies set forth in this License or otherwise provided at law.

2.3 Use of Premises

2.3.1 Conditions of Use. For and during the term of this License, Licensee's use of the Premises shall be subject to the following conditions, covenants and restrictions:

2.3.1.1 Except as provided in this License, the Premises shall be used only for the purposes specified in Paragraph 1.1.2 above, and the Premises shall not be used for any other use or purpose whatsoever, without the prior written consent of VID.

2.3.1.2 Licensee shall not cause, permit or suffer any "hazardous material," "hazardous waste" or "hazardous chemicals" as those terms are used in CERCLA (42 U.S.C. § 9601(14)) or SARA (42 U.S.C. § 110211(e)) or any similar Federal, State, or local law, statute, ordinance, regulation or order, or otherwise determined by VID, to be brought upon, left, used or abandoned on the Premises.

2.3.1.3 Licensee shall not maintain, commit or permit the maintenance or commission of any waste or any nuisance (as defined in California Civil Code section 3479) on the Premises, and Licensee shall not use or permit the use of the Premises for any unlawful purpose.

2.3.1.4 VID or its authorized representative shall have the right at all reasonable times to enter upon the Premises and inspect the general condition of the Premises to determine if Licensee is complying with the terms, conditions, requirements and provisions of this License.

2.3.2 Utilities and Services. Licensee shall be solely responsible for obtaining all utility service and for the payment of all utility charges, including but not limited to water and power, supplied to the Premises.

2.3.3 Permits and Approvals. Licensee shall obtain any and all governmental permits, approvals, licenses or other authorizations which may be required in connection with the use of the Premises as set forth in this License. No approval or consent given under this License by VID shall affect or limit Licensee's obligations hereunder, nor shall any approvals or consents given by VID, in its capacity as a party to this License, be deemed to be approval as to compliance or conformance with any applicable governmental codes, laws, orders, rules or regulations.

2.4 Insurance. Without limiting Licensee's indemnification obligations, Licensee shall not enter or occupy the Premises until Licensee has obtained all of the insurance required herein from a company or companies acceptable to VID, and Licensee shall maintain all such insurance in full force and effect at all times during the term of this License and any extension or renewal thereof. Insurance shall be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by VID.

2.4.1 Licensee shall take out and maintain the following insurance:

2.4.1.1 Workers' Compensation and Employer's Liability Insurance. Licensee shall cover or insure under the applicable laws relating to workers' compensation insurance all of its employees working on or about the Premises, 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. Licensee shall provide worker’s compensation insurance and employer’s liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence, One Million Dollars (\$1,000,000) disease policy limit, and One Million Dollars (\$1,000,000) disease each employee. Such policy of workers compensation insurance shall contain the following separate endorsements:

(a) “Insurer waives all rights of subrogation against the Vista Irrigation District, its officers, directors, employees, representatives and volunteers.”

(b) “This insurance policy shall not be suspended, voided, reduced in coverage or in limits, cancelled, limited, non-renewed or materially changed for any reason by the insurer until thirty (30) days after receipt by the Vista Irrigation District of a written notice of such cancellation, limitation or reduction of coverage.”

2.4.1.2 Commercial General Liability Insurance providing coverage in the following minimum limits:

(a) Combined single limit of One Million Dollars (\$1,000,000) per occurrence for Bodily Injury, Personal Injury or Death and Property.

(b) Damage Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage (occurrence Form CG 0001).

(c) If Commercial General 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 VID), or the general aggregate limit shall be twice the required occurrence limit.

2.4.1.3 Comprehensive Automobile Liability Insurance, including owned, non-owned, leased, hired, and borrowed automobiles and similar vehicles, providing the following minimum limits:

(a) Combined single limit of One Million Dollars (\$1,000,000) per occurrence for Bodily Injury or Death and Property Damage.

(b) Coverage shall be at least as broad as Insurance Services Office (ISO) Business and Auto Coverage (Form CA 0001) covering any auto.

2.4.2 Endorsements. The policies of liability insurance provided for in Paragraphs 2.4.1.2 and 2.4.1.3 shall specify that this specific License is insured and that coverage for injury to participants resulting from Licensee's activities is not excluded, and shall be in a form satisfactory to VID and contain the following separate endorsements:

(a) “The Vista Irrigation District, its officers, directors, employees, representatives and volunteers, are declared to be additional insureds on all of the above policies with respects to the operations and activities of the named insured

at or from the premises of the Vista Irrigation District. The coverage shall contain no special limitations on the scope of protection afforded to the Vista Irrigation District, its officers, directors, employees, representatives and volunteers.”

(b) “This insurance policy shall not be suspended, voided, reduced in coverage or in limits, canceled, limited, non-renewed, or materially changed for any reason until thirty (30) days after receipt by the Vista Irrigation District of a written notice of such cancellation, limitation or reduction of coverage.”

(c) “This insurance policy is primary insurance and no insurance held or owned by the designated additional insureds shall be called upon or looked to cover a loss under said policy; the Vista Irrigation District shall not be liable for the payment of premiums or assessments on this policy.”

(d) “Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Vista Irrigation District, its officers, directors, employees, representatives, or volunteers.”

(e) “This insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.”

2.4.3 Evidence of Coverage. Licensee shall at the time of the execution of the License present to VID the original policies of insurance required by this Paragraph 2.4 or a certificate of the insurance, with separate endorsements (Insurance Services Office Form CG 2026, or equivalent), showing the issuance of such insurance and the additional insured and other provisions and endorsements required herein and copies of all endorsements signed by the insurer’s representative. All policies shall contain the Licensee’s name and location of the Premises on the certificate. At least thirty (30) days prior to the expiration of any such policy, a signed complete certificate of insurance, with all endorsements provided herein, showing that such insurance coverage has been renewed or extended, shall be filed with VID. Licensee’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

2.4.4 Review of Coverage. VID shall have the right at any time to review the coverage, form, and limits of insurance required under this License. If, in the sole and absolute discretion of VID, the insurance provisions in this License do not provide adequate protection for VID, VID shall have the right to require Licensee to obtain insurance sufficient in coverage, form and limits to provide adequate protection and Licensee shall promptly comply with any such requirement. VID’s requirements shall not be unreasonable, but shall be adequate in the sole opinion of VID to protect against the kind and extent of risks which may exist at the time a change of insurance is required, or thereafter.

2.4.5 Deductibles. Any and all deductibles must be declared and approved by VID prior to execution of this License.

2.4.6 License Contingent Upon Coverage. Notwithstanding any other provision of this License, this License shall be null and void at all times when the above-referenced original policies of insurance or Certificate of Insurance or Renewal Certificates or Endorsements are not on file with VID.

2.5 Indemnification

2.5.1 VID not Liable. VID shall not be liable at any time for any loss, damage or injury whatsoever to the person or property of any person or entity whatsoever, including but not limited to any employee, agent, contractor or volunteer of Licensee, resulting from or arising out of any act or omission of Licensee or of any person or entity holding under Licensee, or the occupancy or use of the Premises or any part thereof by or under Licensee, or any act or omission in the exercise of any right or the performance of any obligation under this License, or directly or indirectly from any state or condition of the Premises, or any part thereof.

2.5.2 Indemnification. Irrespective of any insurance carried by Licensee for the benefit of VID, and notwithstanding any other provision of this License to the contrary, Licensee shall indemnify and hold VID, its officers, directors, employees, representatives and volunteers harmless from and against any and all actions, claims, demands, judgments, attorneys' fees, costs, damages to persons or property, penalties, obligations, expenses or liabilities of any kind that may be asserted or claimed by any person or entity (including, but not limited to, any employee, agent, contractor or volunteer of Licensee) in any way arising out of or in connection with this License, the operations carried on by Licensee on the Premises or any lands to which Licensee has access hereunder, or the occupation or use of the Premises by Licensee or any person or entity holding under Licensee (collectively, "Claims"), whether or not there is concurrent active or passive negligence on the part of VID, and/or acts for which the VID would be held strictly liable, but excluding the sole active negligence and willful misconduct of VID. In connection therewith:

2.5.2.1 Licensee shall defend and hold VID, its officers, directors, employees, agents, representatives and volunteers, harmless from any and all Claims, whether caused in whole or in part by VID's active or passive negligence, and/or acts for which VID would be held strictly liable, but excluding any Claim that results from the sole active negligence or willful misconduct of VID, its officers, employees, agents, or representatives; and Licensee shall pay all expenses and costs, including attorneys' fees, incurred in connection therewith.

2.5.2.2 Licensee shall promptly pay any judgment rendered against Licensee or VID covering any Claim, and hold and save VID harmless therefrom, whether such Claim was caused in whole or in part by VID's active or passive negligence, and/or acts for which VID would be held strictly liable, but excluding the sole active negligence and willful misconduct of VID.

2.5.2.3 In the event VID is made a party to any action or proceeding filed or prosecuted for or arising out of or in connection with any Claim, Licensee shall pay to VID any and all costs and expenses incurred by VID in any such action or proceeding, together with reasonable attorneys' fees.

2.5.2.4 All of the indemnity obligations of Licensee under this Paragraph 2.5.2, or as otherwise set forth in this License, shall survive the expiration or earlier termination of this License.

2.6 Legal Relations and Responsibilities

2.6.1 Nature of Relationship. VID and Licensee understand and agree that the only relationship between them created by this License is that of Licensor and Licensee, and that this License does not create, and shall not be construed to create, any agency, partnership, joint venture, landlord-tenant or other relationship between VID and Licensee.

2.6.2 Compliance with Laws. Licensee shall keep itself fully informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect the activities of Licensee under this License, or the possession or use of the Premises by Licensee, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Licensee shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, VID, its officers, directors, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by Licensee or any person or entity holding under Licensee.

2.6.3 Assignment. The License granted hereby is personal to Licensee and any assignment of said License by Licensee, voluntarily or by operation of law, shall automatically terminate this License, unless Licensee has obtained the prior written consent of VID, which may be withheld, in its sole and absolute discretion, for any reason or no reason at all.

2.6.4 Acknowledgment of VID's Title. Licensee hereby acknowledges the title of VID in and to the Premises, including the real property fixtures and improvements existing or erected thereon, and Licensee hereby covenants and promises never to assail, contest or resist VID's title to the Premises.

2.6.5 Liens. Licensee shall maintain the Premises free from and clear of any claims, obligations, liabilities, liens, encumbrances and charges, including but not limited to any claims, liens or charges arising out of or in connection with the furnishing of materials or the performance of labor on the Premises. Licensee further shall protect and indemnify VID and the Premises from and hold them, and each of them, harmless against any and all such claims, obligations, liabilities, liens, encumbrances and charges.

2.6.6 Possessory Interest Taxation. A possessory interest subject to property taxation may be created by this License. It is understood and agreed that if such a possessory interest is created, Licensee shall be responsible for the payment of all property taxes levied on such interest, and that VID shall have no responsibility therefor.

2.6.7 VID's Reservations

2.6.7.1 VID hereby reserves the right to grant easements and rights-of-way for pole or tower lines for transmission of electricity, and easements, leases and

rights-of-way for telephone, telegraph, telecommunication facilities, gas, water, sewer and oil lines, for roads and highways, and for other similar uses over and across the Premises at any location or locations within the Premises. In the event Licensee determines that the granting or exercise of any such easement, lease, or right-of-way significantly interferes with Licensee's possession or use of the Premises, Licensee's only remedy shall be to terminate this License upon thirty (30) days written notice to VID. Licensee shall not interfere with any easements or rights-of-way pertaining to or affecting the Premises.

2.6.7.2 VID hereby reserves the right to sell, transfer, lease or otherwise dispose of any portion of the Premises at any time. In the event of such sale, transfer, lease or disposition, and notwithstanding any other provision of this License, this License shall, upon the close of escrow or the conveyance of title, terminate as to the portions of the Premises sold, transferred, leased or disposed of, and Licensee shall release the same from the terms of this License and from any encumbrance which results from this License.

2.6.7.3 VID reserves the right unto itself to perform any and all work involved in protecting, replenishing and/or conserving the water supply of the watershed of Lake Henshaw, and any other work necessary to the functions or purposes of VID, upon any portion or all of the Premises at any time. Such work may be performed without incurring any liability of any nature whatsoever to Licensee, and Licensee hereby releases VID from, and covenants not to sue VID for, any such liability. VID further reserves unto itself the rights of ingress and egress over all or any portion of the Premises.

2.6.7.4 Except as provided herein, this License is not exclusive. The District reserves the right to enter into and maintain other agreements, licenses, leases, and conveyances with other parties on the Premises for uses that do not materially interfere with the operations of the Licensee. By execution of this License, Licensee agrees to cooperate with the District and the parties to the District's business relationships.

2.6.8 Waiver of Claims. As a material part of the consideration to VID under the License, Licensee hereby waives any and all claims that it may have against VID during the term of this License, or any extension or renewal thereof, for any damage to goods, wares and merchandise upon or about the Premises, and for any injury to Licensee, its employees, agents, invitees, or to third parties in or about the Premises, from any cause arising at any time.

2.6.9 Surrender of Possession. At the expiration or termination of this License, whether with or without cause, Licensee shall promptly quit and surrender the Premises in a good state of repair.

2.6.10 Disposition of Abandoned Property. If Licensee abandons or quits the Premises or is dispossessed thereof by process of law or otherwise, title to any personal property left on the Premises for fifteen (15) or more days after such event shall at VID's opinion, be deemed to have been abandoned and transferred to VID. VID shall have the right to

remove and dispose of any and all such property without liability therefor to Licensee or to any person or entity claiming under Licensee, and VID shall have no duty to account for such property. Licensee agrees to reimburse VID for any and all costs associated with VID transferring or disposing of Licensee's personal property pursuant to this Section.

2.6.11 Premises "As-Is". Licensee acknowledges that the Premises are being provided to Licensee on an "as-is" basis, and Licensee takes and occupies the Premises without reliance upon any representation by VID, or any of its officers, employees, agents or representatives, or any other person, concerning the Premises, their fitness for Licensee's intended use or any other particular purpose of use, their income-producing history, potential or capabilities, their value, or any other promise, representation or inducement not expressly set forth in this License.

2.6.12 No Representation or Warranty Concerning Premises. Licensee acknowledges that neither VID, nor any of its officers, employees, agents or representatives, has made any written or oral representation, promise, or warranty, expressed or implied, concerning the Premises, their fitness for Licensee's intended use or any other purpose or use, their income producing history, potential or capabilities, their value, or any other matter not expressly set forth in this License.

2.6.13 Disputes. In the event that any action is commenced by a party to this License against the other to enforce its rights or obligations arising from this License or seeking to interpret this License, the prevailing party in such action, in addition to any other relief and recovery ordered by the court, shall be entitled to recover all statutory costs, plus reasonable attorneys' fees. Should VID be named in any suit brought by any third party against Licensee in connection with or in any way arising out of Licensee's occupancy or use of the Premises under this License, Licensee shall pay to VID its costs and expenses incurred in such suit, including reasonable attorneys' fees.

2.6.14 Security Measures. Licensee acknowledges that the Premises are licensed to and accepted by Licensee in an "as-is" condition, and that the License Payments and other sums payable from Licensee to VID hereunder do not include the cost of security guard or any other security services or measures. Licensee further acknowledges that VID makes no representation or warranty, express or implied, regarding the security of the Premises or the need for or propriety of any security measures at the Premises; and Licensee further acknowledges that VID shall have no obligation whatsoever to provide guard service or any other security measures. Licensee expressly assumes all responsibility for the protection and security of the Premises, Licensee, its agents, employees, invitees and property within the Premises from any and all acts of any third party.

2.6.15 No Obligation to Third Parties. Execution and issuance of this License shall not be deemed to confer any rights upon, directly, indirectly or by way of subrogation, nor obligate either of the parties hereto to, any person or entity other than VID and Licensee.

2.6.16 Waiver. Any waiver by any party of a breach of any provision of this License shall not be deemed a continuing waiver or a waiver of any subsequent breach whether of the same or of another provision hereof.

2.6.17 VID's Liability on Termination. Licensee hereby waives all damages or claims for damage that may be caused by any action of VID in terminating this License (either with or without cause), or taking possession of the Premises as provided in this License or at law, and Licensee waives all claims for damages to or loss of such property of Licensee as may be in or upon the Premises upon the termination of this License.

2.7 Maintenance and Repair of Premises

2.7.1 Licensee's Obligation to Maintain Premises. Licensee shall at all times during the term of this License, and any extension or renewal thereof, at its sole cost and expense, remove all trash and debris from the Premises. Licensee shall also keep and maintain in good condition and in substantial repair (all to the satisfaction of VID in its sole discretion), the Premises and all appurtenances and every part thereof, including improvements of any kind erected, installed or made on or within the Premises. Licensee shall at all times in the maintenance and use of the Premises and the buildings, structures, facilities, improvements and equipment thereon, comply with all laws, ordinances and regulations pertaining thereto, and all conditions and restrictions set forth herein. Licensee expressly agrees to maintain the Premises in a safe, clean, wholesome, and sanitary condition and free of trash and debris, to the complete satisfaction of VID and in compliance with all applicable laws.

2.7.2 Licensee's Default of its Maintenance Duties. In the event that Licensee fails, neglects or refuses to remove trash or debris deposited by Licensee or its invitees on the Premises or to maintain or make repairs or replacements as required by this License, VID shall notify Licensee in writing of such failure or refusal. Should Licensee fail or refuse to correct such default within ten (10) days of receipt of such written notice from VID, VID may, but shall not be required to, itself or by contract, undertake the necessary maintenance, repair or replacements; and the cost thereof, including but not limited to the cost of labor, materials and overhead, plus an administrative fee in the amount of twenty-five percent (25%) of the sum of such costs, shall be paid by Licensee to VID within ten (10) days of Licensee's receipt of a statement of such costs from VID. Any such maintenance, repair or replacement by or on behalf of VID shall not be deemed to be a waiver of Licensee's default under this License, and shall not in any way impair, prevent or restrict VID from exercising any of its rights or remedies set forth in this License or otherwise provided at law.

2.8 Miscellaneous

2.8.1 Notices. Any notice, payment or instrument required or permitted to be given or delivered by this License may be given or delivered by personal delivery or by depositing the same in any United States mail depository, first class postage prepaid, and addressed as follows:

If to VID:

VISTA IRRIGATION DISTRICT
1391 Engineer Street
Vista, CA 92081-8836
Attn: General Manager

If to Licensee:

To such name and address set forth for Licensee in Part I of this License,

or such other person or address as either party may direct in writing to the other; provided, however, that such new or different person or address shall not become effective until acknowledged in writing by the party to who directed. Except where service is by personal delivery or by registered or certified mail, return receipt requested, service of any instrument or writing shall be deemed completed forty-eight (48) hours after deposit in a United States mail depository.

2.8.2 Warranty of Authority. Each officer of VID and Licensee affixing his or her signature to this License warrants and represents by such signature that he or she has the full legal authority to bind his or her respective party to all of the terms, conditions and provisions of this License, that his or her respective party has the full legal right, power, capacity and authority to enter into this License and perform all of its provisions and obligations, and that no other approvals or consents are necessary in connection therewith.

2.8.3 Headings. The titles and headings of Sections and Paragraphs of this License, as herein set forth, have been inserted for the sake of convenience only, and are not to be taken, deemed or construed to be any part of the terms, covenants or conditions of this License, or to control, limit or modify any of the terms, covenants or conditions hereof.

2.8.4 Time of Essence. Time is of the essence of this License. Failure to comply with any requirement, including but not limited to any time requirement, of this License shall constitute a material breach of this License.

2.8.5 Construction and Amendment. This License shall be construed, interpreted, governed and enforced in all respects according to the laws of the State of California and as if drafted by both VID and Licensee. No amendment, change or modification of this document shall be valid unless in writing, stating that it amends, changes or modifies this License, and signed by all of the parties hereto.

2.8.6 Successors. Subject to the provisions of Paragraph 2.6.3 above, this License, and all of the terms, conditions and provisions herein, shall inure to the benefit of, and be binding upon, VID, Licensee, and their respective successors and assigns.

2.8.7 Re-Entry. No entry or re-entry into the Premises by VID shall be construed as an election to terminate this License, unless prior thereto or concurrently therewith written notice of intent to terminate is given by VID to Licensee. VID's entry into possession of the Premises without having elected to terminate shall not prevent VID from making such an election and giving Licensee notice thereof.

2.8.8 Partial Invalidity. If any term, covenant, condition or provision of this License is held by a court of competent jurisdiction to be invalid, void, illegal, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way affect, impair, or invalidate any other term, covenant, condition or provision contained in this License.

2.8.9 Further Assurances. Each of the parties hereto shall execute and deliver any and all additional papers, documents and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties hereto.

2.8.10 Precedence. In the event of any conflict between Parts of this License, Part I shall prevail over Parts II, III and IV, and Part III shall prevail over Part II.

[END GENERAL LICENSE PROVISIONS]

PART III

SPECIAL LICENSE PROVISIONS

3.1 Additional Conditions of Use. The following are added to Paragraph 2.3.1 of this License, as additional conditions to the use of the Premises:

2.3.1.5 Licensee shall coordinate all activity on the Premises with VID's Water Resources Department.

2.3.1.6 No waste shall be permitted nor committed by Licensee and Licensee shall not overgraze or overstock the Premises. Licensee shall conduct all operations contemplated under this Agreement in accordance with good and accepted agronomic and environmental practices. Licensee shall comply with all written directives of the VID's Representative.

VID Representative may:

- a.) Determine the carrying capacity of the Premises from time to time and decide if cattle must be moved to other pastures or removed from the Premises to prevent overgrazing.
- b.) Approve the amount of supplemental feeding of animals upon the Premises proposed by Licensee when the carrying capacity of the Premises is exceeded, or, in the alternative, direct Licensee to remove from the Premises animals which might be in excess of the then existing carrying capacity of the Premises.
- c.) Identify practices that shall be amended or instituted in order to safeguard certain environmental or cultural resources on the Property.

2.3.1.7 Licensee shall not build any structures of any character upon the Premises.

3.2 Utilities and Services. The following is added to Paragraph 2.3.2 of this License:

2.3.2.1 Stock Water. The Licensee, at no expense to VID, shall maintain all springs, tanks, watering troughs, and water lines as needed to provide water for its stock. The Licensee may use limited quantities of water, as available, which the District may produce from wells in its water production system, but VID has no obligation to provide water under pressure for supplying stock water to Licensee. Should Licensee need stock water at a pressure greater than those maintained by VID in the normal operation of its water production system, Licensee shall install, operate and pay for any additional pumps or equipment and all energy costs. Only such water as can efficiently be used by the Licensee for the watering of its stock shall be furnished by VID under this License. VID retains the right to suspend supplying stock water to prevent waste.

3.3 Licensee's Obligation to Maintain Premises. The following is added to Paragraph 2.7.1 of this License:

2.7.1.1 Licensee shall, at no expense to VID, maintain in good repair all fences and corrals on the Premises, including all fences along highways, roads and all Warner Ranch exterior or perimeter fences. Should Licensee's operations result in cattle grazing along the perimeter of Warner Ranch where fences do not exist, Licensee shall, at no expense to VID, construct fences so as to confine its cattle to the Premises. Except as otherwise provided herein, Licensee shall keep and maintain all improvements on the Premises, including cattle-handling facilities, cattle-guards, and other appurtenances, in good condition and repair.

2.7.1.2 Licensee acknowledges that it has examined and is fully familiar with the Premises and all improvements and accepts them in their present condition. Licensee will save and hold harmless VID from any and all claims for labor and materials (except where otherwise stated herein) in connection with the improvements, repair, or alterations made to or upon the Premises by Licensee.

2.7.1.3 Pest Control. Lessee shall carry on all of its operations hereunder in accordance with good husbandry and sound agronomic and environmental practices, including, but not limited to, pest eradication and control, but only to the extent reasonably necessitated by use of the Premises permitted by this License and as required by VID's Representative. Lessee shall, in all its operations under this License and at its expense, comply with all applicable laws, rules and regulations, including, but not limited to the California Occupational Safety and Health Act of 1973, as amended. Any chemicals, sprays, or materials used for any purpose must be approved by the VID's Representative for their compatibility with the District's water system operation.

3.4 Miscellaneous. The following is added to Paragraph 2.8. of this License:

2.8.11 Reports and Information. Upon request, Licensee shall furnish VID copies of all brand inspection reports covering all cattle shipped to or removed from the Premises. Licensee shall further afford VID full and complete access to books and records of Licensee at all reasonable times, or, in lieu thereof, furnish on demand, a statement, certified by a certified public accountant, covering Licensee's operations, including all expenses incurred insofar as the same relate to Licensee's utilization of the Premises.

Initial:


Licensee


VID

[END SPECIAL LICENSE PROVISIONS]

PART IV

Premises

The Premises shall consist of those portions of the legal lots included in the Assessor's Parcel Map numbers listed below which also lie east of the Highway 79 right-of-way and south of either the Highway S-2 or S-22 rights-of-way, subject to the terms, conditions and reservations contained in the Agreement:

Assessor's Parcel Numbers

137-090-35

193-080-30

195-020-02

195-050-20

195-070-31

The Premises comprise an area of about 8,100 acres, more or less. The area is informally broken into pastures which presently carry the names "Sloan", "Mataguay 1", "Mataguay 2", and "Barrel".

FIRST AMENDMENT TO GRAZING LICENSE AGREEMENT

This First Amendment to the Grazing License Agreement is entered into as of 9/29/2020 | 7:09 AM PDT, 2020 by and between Vista Irrigation District (hereinafter referred to as “VID” or “Licensor”) and Landscape Function Management, LLC, successor to Mendenhall Cattle Company, Inc. (hereinafter referred to as “Licensee”). Licensor and Licensee referred to below collectively as Parties.

WITNESSETH:

Whereas, VID and Licensee’s predecessor, Mendenhall Cattle Company, Inc., entered into a Grazing License Agreement (License) dated October 23, 2017 to provide for the pasturage and grazing of cattle on a portion of the Warner Ranch (hereinafter referred to as “License”); and

Whereas, the Mendenhall Cattle Company, Inc. informed VID that it had sold all of its corporate shares to new owners, Landscape Function Management, LLC, effective May 20, 2020; and

Whereas, the Licensee agreed to assume and be bound by all of the terms and conditions set forth in the License entered into by Licensee’s predecessor, including but not limited to the payment of the Base License Fee and the Supplemental License Fee, as provided by Section 1.4 of the License, consistent with General License Provisions section 2.1 and 2.2; all terms of use in General License Provisions section 2.3; and all Special License Provisions of Part III of the License; and

Whereas, Licensee desires, as a business convenience, for the License to be issued in the name of Landscape Function Management, LLC and Licensor by this First Amendment has approved the assignment of all rights and obligations of the Licensee to Landscape Function Management, LLC pursuant to General License Provisions section 2.6.3.

Now, therefore, the Parties agree to amend the License as follows:

1. The Parties agree to replace “Mendenhall Cattle Company, Inc.” with “Landscape Function Management, LLC” as Licensee in all instances where the predecessor’s name appears in said License.
2. Pursuant to General License Provisions section 2.4.3, Landscape Function Management, LLC shall provide to Licensor, or before August 31, 2020, the required evidence of insurance coverage complying in all respects with all insurance requirements of the License.
3. Except as otherwise expressly amended herein, all terms and conditions of the License shall continue in full force and effect, and Landscape Function Management, LLC shall be fully responsible for all Licensee obligations under the License, effective from the date of this First Amendment onward. In case of any inconsistency between the License and this First Amendment, the terms and conditions of this First Amendment shall govern and control.

In witness whereof, the Parties have executed and entered into this First Amendment as of the date first set forth above.

Vista Irrigation District
Licensor

Landscape Function Management, LLC
Licensee

DocuSigned by:
Brett Hodgkiss 9/29/2020 | 7:09 AM PDT
442CB887E2E94B6...
Brett Hodgkiss
General Manager

DocuSigned by:
Kevin Munoz 9/28/2020 | 4:20 PM PDT
B6A449CEA34F472...
Kevin P. Munoz, Jr.
President

DS
CM