

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is made and entered into **this 1ST** day of April, 2019, by and between the BURNEY WATER DISTRICT (hereinafter "District") and SHASTA COUNTY HEAD START CHILD DEVELOPMENT, INC. (hereinafter "SHSCDI") a non-profit federally funded corporation.

RECITALS

WHEREAS, The Burney District is the owner of that certain real property commonly known as the Community Pool, Burney, California, 96013 (hereinafter Pool Site).

WHEREAS, SHSCDI desires to construct or place, or cause to be constructed or placed, a portable building ("Portable") and children's playground (hereinafter the "Facility") upon the Pool Site more specifically identified in Exhibit "A", attached hereto and incorporated by reference herein (hereinafter the "License Area").

WHEREAS, SHSCDI intends to provide educational and social opportunities for preschool-aged children (hereinafter the "Program") at the Facility and within the License Area on the Pool Site.

WHEREAS, District and SHSCDI agree that this Agreement is in the best interest of the parties and for the mutual benefit of each party.

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of which is acknowledged, District and SHSCDI agree as follows:

AGREEMENT

Article 1. Recitals: License

1.1 Incorporation of Recitals. District and SHSCDI (hereinafter collectively "Parties" or individually "Party") warrant that the foregoing "RECITALS" are true and correct and incorporate them into this Agreement as though set forth fully herein.

1.2 Grant of License. District hereby grants SHSCDI a revocable license ("License") to enter the Pool Site for the purposes of installing the Facility in the License Area and carrying out the Program. The rights granted to and the obligations imposed on SHSCDI shall extend to SHSCDI's officers, agents, employees, volunteers, and independent contractors.

1.3 Physical Extent of Right to Enter. The License created hereunder shall consist of the right for SHSCDI to enter upon the Pool Site and use License Area as depicted in Exhibit "A" here to and incorporated by reference herein.

1.4. Pool Site and License Area - "As Is" Condition. SHSCDI acknowledges and accepts the Pool Site and License Area in "as is" condition and expressly acknowledges that District does not warrant, and has made no express or implied warranties, regarding the suitability of the soil for the Facility, the Pool Site facilities, or contemplated construction or other improvements of the Pool Site or License Area in connection with this License, this Agreement, or SHSCDI's Program.

1.5. Term of License. The term of this License shall be for ten (20) years, beginning June 1, 2010 and continuing until June 30, 2030 ("Initial Term").

1.6. Renewal Option. SHSCDI shall have the option of renewing the License (hereinafter the "Renewal Option") for an additional period of ten (10) years, by providing written notice to the District six months prior to the expiration of the License.

1.7. Payment for License. SHSCDI shall pay to District the sum of \$ hundred dollars (\$) per month (hereinafter "License Payment") for the License granted under and pursuant to this Agreement. The License Payment is due and payable in full on the first day of each month. The License Payment shall be increased annually by the "sustainable cost of living adjustment" as determined by the Administration for Children and Families and as applicable to SHSCDI, regardless of whether the cost of living adjustment is actually funded or paid to SHSCDI.

Article 2. Alterations and Improvements

2.1. Funding and Title. SHSCDI shall fund the design and construction of the Facility and any required improvements outside the License Area required for the Facility in accordance with all applicable laws, rules and regulations. Except as otherwise set forth in this Agreement, District shall have no financial or other obligations or liabilities in connection with SHSCDI, its Facility, or its Program.

The District shall retain fee title to the real property encompassing the Pool Site, which includes title to the real property herein designated as the License Area, and which fee title shall remain at all times with District. All permanent improvements to the License Area, including without limitation fences, exterior lighting, concrete pad, sidewalks, shall vest in the District, but the District shall have no obligation to purchase improvements made by SHSCDI upon termination or expiration of this Agreement. The Portable and all furnishing, fixtures and supplies located inside the Portable shall remain the property of SHSCDI.

2.2. Alterations and Improvements. SHSCDI shall have the right to construct or repair the Facility, but must do so in accordance with all applicable regulations, laws or ordinances of the State of California or any other applicable agency with jurisdiction, including without limitation any requirements of the California Division of the State Architect. SHSCDI shall pay promptly for all such work done by it or upon its order and shall, at its own expense, make any and all necessary repairs to the Facility or other physical improvements placed by it within the License Area in order to comply with any and all applicable regulations, laws or ordinances of the State of California or any other applicable agency with jurisdiction.

2.3. Liens and Claims. SHSCDI shall promptly pay in full for any supplies, equipment, furnishings and furniture for the Facility that SHSCDI shall cause to be delivered to the License Area and shall promptly pay in full all persons who perform labor on the License Area at SHSCDI's request. If any mechanics' or materialmen's liens or any other liens or claims for any work done or items furnished at SHSCDI's request are filed against the Facility, License Area, or District, SHSCDI shall remove the liens and claims at SHSCDI's own expense. If SHSCDI fails to remove the liens or claims and any judgment is entered thereon or thereunder, SHSCDI shall pay that judgment. Should SHSCDI fail, neglect, or refuse to remove any liens or claim or to pay any judgment, District shall have the right to pay any amount required to release any such liens or claims, or to defend any action brought on the liens or claims and to pay any judgment entered on the liens or claims. SHSCDI shall be liable to District for all costs, damages, reasonable attorneys' fees, and any amounts expended in defending any proceedings or in the payment of any of said liens or claims or any judgment obtained therefore. District may record, post and maintain upon the Facility a notice of non-responsibility. SHSCDI shall not encumber by any security instrument, all or any part of SHSCDI's interest under this License without the prior written consent of District, and upon such terms and conditions as District may require.

2.4. Indemnification. Without limiting any other indemnity provisions contained in this Agreement, SHSCDI shall indemnify, defend and hold District harmless from all claims for labor or materials in connection with the following activities undertaken by SHSCDI or at SHSCDI's request: the construction, repair, alteration, or installation of any approved structure, improvement, equipment, or facility, including any portion of the Facility, on or within the License Area, and with indemnity obligations include without limitation all claims for attorneys' fees and costs that may be incurred by District as a result thereof.

2.5. Compliance With Laws. SHSCDI shall comply with all applicable statutes, ordinances, regulations, and requirements of all governmental entities, Federal, State, County or Municipal, including those relating to public contracting (including but not limited to bidding, licensing and bonding requirements) whether those statutes, ordinances, regulations, and requirements are now in force or are subsequently enacted. If any license, permit, or other governmental authorization is required for the lawful construction, use or occupancy of the Facility, SHSCDI shall procure it at its sole expense and maintain it throughout the term of this Agreement.

2.6. Signage. SHSCDI may place appropriate signs on the Facility to identify the Program; however, District shall have the right to approve any signage in writing and in advance of its placement on the Facility.

2.7. Utilities. SHSCDI will pay all costs to connect the Facility to existing water and sewer services at the District Site, including any connection fees and charges that may apply. District will pay the periodic user fees for water and sewer services during the term of the License and pursuant to this Agreement. SHSCDI will pay all costs of having electrical services connected to Facility and shall ensure that a separate electric meter shall be installed on the Facility. SHSCDI shall timely pay all monthly charges for electricity provided to the Facility, including lighting on the playground.

2.8. Maintenance and Repairs. SHSCDI shall, at its sole expense, provide custodial, janitorial and maintenance services for the Facility and any other improvements within the License Area.

Article 3. Use of License Area

3.1. Permitted Uses of License Area; SHSCDI Responsibilities. SHSCDI shall use the License Area and Facility solely for the purposes of operating the Program, which includes its staff, equipment, supplies, services, and administration of the Program, and shall be solely responsible for all costs and services relating to said operations. SHSCDI shall be responsible for all initial and ongoing costs of installing and operating the Facility, except as specifically set forth in this Agreement. SHSCDI shall be solely responsible for providing all interior and exterior equipment and furnishings for the Program. To the extent that SHSCDI wishes to use the Facility for any use other than the Program, SHSCDI shall be required to obtain the District's prior written approval, which shall not be unreasonably withheld.

3.2. Prohibited Uses. SHSCDI shall not use or permit the License Area to be improved, used or occupied in any manner or for any purpose that is in any way in violation of any valid law, ordinance, or regulation or any Federal, State, County, or Local Government agency, body or entity, or in any manner that violates the terms of this Agreement.

3.3. Program Standards. The SHSCDI shall be responsible for seeing that the standards and quality of any improvements and operations for the Program shall meet the requirements of all applicable federal, state and local laws.

3.5 Fingerprinting. Since SHSCDI will be sharing the Pool Site with the District, SHSCDI employees and volunteers may have more than incidental contact with District students. Therefore, all SHSCDI employees and volunteers shall comply with the requirements of Education Code sections 45125.1. In addition, SHSCDI shall require any contractor completing work on the Facility to comply with the requirements of Education Code section 45125.2.

Article 4. Insurance

4.1 Coverage Required. Before the commencement of the License and during the

term of the License, SHSCDI shall obtain and maintain insurance issued by insurers covering SHSCDI's activities on the District Site, and otherwise, as follows:

(1) commercial general liability insurance, occurrence-based and not claims made, for bodily injury, personal injury and property damage and including products and completed operations and non-owned and hired automobile coverage, with liability limits of not less than One Million Dollars (\$1,000,000) combined single limit. Bodily injury shall not be less than One Million Dollars (\$1,000,000) per person, and Three Million Dollars (\$3,000,000) per occurrence.

(2) automobile liability insurance for bodily injury, personal injury and property damage for vehicles owned, non-owned, or hired, with policy limits or not less than One Million Dollars (\$1,000,000) combined single limit.

4.2 Insurance Provisions.

(1) The policies required under Section 4.1 of this Agreement shall: (i) name District as an additional insured and be provided on an occurrence basis; (ii) state that such policy is primary, excess, and non-contributing with any other insurance carried by District; (iii) state that the naming of an additional insured shall not negate any right the additional insured would have had as claimant under the policy if not so named; and (iv) state that not less than thirty (30) days written notice shall be given to District before the cancellation or reduction of coverage or amount of such policy.

(2) A certificate issued by the carrier of the policies described under Section 4.1 of this Agreement shall be delivered to District prior to SHSCDI's entry onto the License Area pursuant to this Agreement. Each such certificate shall set forth the limits, coverage, and other provisions required under this Section. A renewal certificate for each of the policies described above shall be delivered to District not less than thirty (30) days before the expiration of the term of such policy. Coverage shall be subject to District's approval by an insurer admitted and licensed in California to transact insurance coverage and issue policies.

(3) The policy or policies required under this Article 4 may be made part of a blanket policy of insurance so long as such blanket policy contains all of the provisions required in this Article 4 and does not reduce the coverage, impair the District's rights under this Agreement, or negate SHSCDI's obligations under this Agreement.

(4) Upon District's request, a copy of the insurance policies described above shall be provided to District.

4.3 Worker's Compensation Insurance and Employer's Liability Insurance.

Before the commencement of the Program, SHSCDI shall provide a certificate(s) of insurance and endorsements on forms acceptable to the District, for the period covered by the Agreement, with full Worker's Compensation Insurance coverage for no less than the statutory limits, and employer's liability insurance coverage with limits not less than One Million Dollars (\$1,000,000), for all persons whom it employs or may employ in carrying out the Program under this Agreement. This insurance shall be in strict accordance with the requirements of the most current and applicable State Worker's Compensation Insurance Laws.

Article 5. Property Interests; Duties

5.1. No Property Interest Created. Except as otherwise provided in this Agreement, the License granted under this Agreement does not create any property interest for SHSCDI in the District Site or the License Area.

5.2. Property Taxes. Notwithstanding Section 5.1, SHSCDI's possession and use of the License Area under this License Agreement may be determined to create a "possessory interest" subject to the assessment of property taxes based upon such a possessory interest. SHSCDI solely shall be responsible for the payment of any and all such property taxes levied on such interest, including any penalties and interest in connection therewith.

5.3. Safety. SHSCDI shall be solely and completely responsible for conditions of the License Area and the Facility, including safety of all persons and property during times when SHSCDI, its agents, employees, volunteers and independent contractors access the Pool Site. SHSCDI, its agents, employees, volunteers and independent contractors shall fully comply with all state, federal and other laws, rules, regulations, and orders relating to safety. All materials, equipment, and supplies provided for the Facility and Program shall fully conform to all applicable State, local and Federal safety laws, rules, regulations, and orders.

5.4. SHSCDI's Duty to Restore Facility. If at any time during the term of this License, any improvements now or hereafter placed on the License Area, or property placed in the Facility, or the Facility itself, are destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of District, this License shall continue in full force and effect and SHSCDI, at SHSCDI's sole cost and expense, shall have the duty to restore the Facility and shall be solely responsible for the cost incurred to repair and restore the damaged improvements.

Article 6. Indemnification

6.1. Indemnification. SHSCDI shall defend, indemnify and hold District, its officers, agents, employees, members of its Board of Trustees and Board of Trustees and the property of District, harmless from any and all liability, claims, loss, damages, or expenses, including reasonable attorneys' fees, arising out of an act or omission by SHSCDI or any of its officers, employees, agents, assigns, customers, students, enrollees, or other person in the License Area or upon the Pool Site in connection with SHSCDI's operations or Program, whether such act or omission was negligent or willful.

Article 7. Termination of License

7.1. Termination of License. Except as otherwise provided in this Agreement and without limiting the rights, duties and obligations set forth elsewhere in this Agreement, the License granted under this Agreement may be terminated by either Party at any time for cause. "Cause" shall consist of a material breach of any provision of this Agreement, including but not limited to SHSCDI's abandonment of the Facility for use of its Program, and the failure of the breaching party to cure the breach within thirty (30) days of being notified in writing of the breach. Such a termination shall become effective immediately upon the giving of written notice of the termination. District may bring an action, in addition to or in lieu of this action, to reenter and regain possession of the License Area of the Pool Site in the manner provided by the laws of

unlawful detainer of the State of California then in effect.

7.2 Survival of Obligations. In the event that the License granted under this Agreement is terminated, any such termination shall not extinguish any other obligations under this Agreement, which obligations shall remain in full force and effect and shall bind the Parties and their respective successors and assigns as the case may be.

7.3 Restoration of License Area. Upon expiration or termination of the License, SHSCDI, its agents, officers, employees, volunteers and independent contractors shall immediately vacate the License Area and Pool Site.

7.4 Other Remedies at Law or Equity. The remedies given to District in this Article 8 shall not be exclusive, but shall be cumulative with, and in addition to, all remedies now or hereafter allowed by law and elsewhere provided in this Agreement.

Article 9. General Terms and Provisions

9.1 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter dealt with in this Agreement and all understandings, oral or written, with respect to the subject matter of this Agreement are hereby superseded.

9.2 Construction of Agreement. The terms and provisions of this Agreement shall be liberally construed to effectuate the purpose of this Agreement. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, no uncertainty or ambiguity shall be construed or resolved against either Party under any rule of construction, including the Party primarily responsible for the drafting and preparation of this Agreement.

9.3 Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California, exclusive of its conflict of laws provisions. In the event of litigation, venue shall lie in a court of competent jurisdiction located in Shasta County.

9.4 No Assignment. SHSCDI shall not have the right to assign this License or this Agreement or any interest in this License or Agreement, without District's prior written consent.

9.5 No Sublicense. SHSCDI shall not have the right to sublicense all or any portion of the License Area without District's prior written consent. In the event that District approves a sublicense, SHSCDI shall ensure that the sublicensee adheres to the terms of this Agreement. Under all such circumstances, the duties and obligations under this Agreement remain bound to and enforceable against SHSCDI, which duties and obligations are not assignable in any manner to the sublicensee.

9.6 Notices. Any notice required or desired to be given pursuant to this Agreement shall be in writing, duly addressed to the respective Party as set forth below. By written notice in conformance herewith, either Party may change the address to which notices to said Party must be delivered. Any notice deposited with the United States Postal Service shall be deemed to

have been duly given when so deposited, so long as said notice is sent by certified or registered mail, postage prepaid, and addressed as set forth below or as changed as set forth herein. Notice sent by any other manner shall be effective only upon actual receipt thereof.

To District:

Burney Water District
20222 Hudson Street
Burner, California 96013
Attn: William "Willie" Rodriguez
District Manager

To SHSCDI:

Shasta County Head Start Child Development, Inc.
375 Lake Blvd., Suite 100
Redding, California 96003
Attn: Gordon Chatham

9.7. Signatures in Counterpart. The Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original and taken together, shall constitute one and the same Agreement, which shall be binding and effective as to all parties. A facsimile signature shall have the same force and effect as an original.

9.8. No Waiver. No waiver by either Party of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision.

9.9. Advice of Counsel. The Parties represent and warrant that they have had the advice of counsel of their own choosing in the negotiation for and the preparation of this Agreement, and that they have read this Agreement and fully understand the Agreement's legal effect and are signing this Agreement voluntarily of their own free will.

9.10. Attorneys' Fees and Costs. In the event of litigation arising out of this Agreement, neither party shall be entitled to recovery of attorneys' fees or costs.

9.11. Severability. The invalidity of any provision of this Agreement as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

9.12. Section Headings. The section headings contained herein are for convenience only, and are not intended to define or limit the scope of any provision of this Agreement.

9.13. Amendment. This Agreement shall not be amended, except by mutual consent of the Parties hereto in a writing signed by the Parties.

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

BURNEY WATER DISTRICT

By:

Title:

Date:

SHASTA COUNTY HEAD STATE CHILD DEVELOPMENT, INC.

By:

Title:

Date:

EXHIBIT A
LICENSE AREA

THIS PAGE WILL INCLUDE A SITE PLAN OF THE PROJECT.