

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: May 5, 2020	TYPE OF AGENDA ITEM: <input type="checkbox"/> Regular <input type="checkbox"/> Timed <input checked="" type="checkbox"/> Consent
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DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Resolution rescinding Agreement 2020-32 and approving revised agreement with SPI for continued use of Plum Valley Park as a county facility.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION: Agreement 2020-032 was approved at the April 21, 2020 meeting and had a provision that prohibited open flames of all types. SPI has provided an updated agreement that will allow "self-contained, gas powered barbeques with a minimum clearance of 10 feet of all flammable vegetation or other substances conducive to the spread of fires around the perimeter of the barbeque." (Provision 5h).

FUNDING SOURCE: Parks & Recreation
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$0 N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

 CLERK TO THE BOARD _____
 DATE

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

**IN THE MATTER OF RESCINDING
AGREEMENT 2020-032 AND APPROVING
UPDATED LEASE AGREEMENT WITH
SPI FOR USE OF PLUM VALLEY PARK**

RESOLUTION 2020-_____

Be It Resolved that Agreement 2020-032 is hereby rescinded due to an updated provision.

Be It Further Resolved that the updated General License Agreement with Sierra Pacific Industries for continued use of Plum Valley Park as a County Facility is hereby approved.

ADOPTED by the Board of Supervisors of the County of Sierra on the 5th day of May, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

COUNTY OF SIERRA

JAMES BEARD
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
CLERK OF THE BOARD

DAVID PRENTICE
COUNTY COUNSEL

GENERAL LICENSE AGREEMENT

This General License Agreement (“Agreement”) is entered into on April 2, 2020 (“Effective Date”), by and between SIERRA PACIFIC INDUSTRIES, a California corporation (“Company”), and COUNTY OF SIERRA, a political subdivision for the State of California (“Licensee”). In the event Company manages the Property (as defined below) and the Property is owned by a third party, all references to Company herein shall be deemed to include Owner (as defined below).

RECITALS

WHEREAS, Company owns or manages for Sierra Pacific Land & Timber Company (“Owner”) certain real property in Sierra County, California, as more particularly described in **Exhibit A** attached hereto and incorporated herein (the “Property”); and

WHEREAS, Licensee desires to conduct the following activity (the “Activity”) upon the Property: Use and maintain an existing park and picnic area known as Plum Valley Park.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions, it is mutually agreed as follows:

1. NON-EXCLUSIVE REVOCABLE LICENSE.

Subject to the terms and conditions of this Agreement, Company hereby grants a license (the “License”) to Licensee to perform the Activity upon the Property. Licensee’s right to perform the Activity is non-exclusive and Company shall have the right to enter and use the Property for any purpose that will not unreasonably interfere with the rights granted to Licensee under this Agreement. This License is revocable by Company as provided in Section 2 of this Agreement. Licensee agrees that Company shall not be estopped to revoke this License, notwithstanding any expenditure, regardless of amount, Licensee may incur related to the Activity. Licensee further agrees that Licensee shall not contest Company’s right to revoke this License.

2. TERM.

This Agreement shall be effective for a term of five years and shall automatically expire on April 1, 2025; provided, however, that notwithstanding the foregoing, Company may revoke this License at any time by giving Licensee fifteen (15) days’ written notice. This Agreement shall supersede any other license or lease agreement in effect between Licensee and Company on the Effective Date and any such agreement is hereby terminated with no further obligation on the part of Licensee or Company except for those obligations set forth herein. This Agreement shall automatically terminate on the occurrence of bankruptcy or insolvency of either party, or death or dissolution of either party.

3. LICENSE FEE.

Licensee agrees to pay to Company an annual license fee (the “License Fee”) for the use of the Property in the amount of \$ -0- per year.

4. EXPENSES OF LICENSEE.

Licensee shall pay the costs and expenses listed below:

(a) Taxes. Licensee shall pay, before they become delinquent, any and all charges, fees, taxes or assessments of any kind whatsoever imposed on the Property by reason of (i) Licensee's Activity on the Property, (ii) construction of improvements on the Property by Licensee, (iii) the placement of personal property on the Property by or on behalf of Licensee, or (iv) any privilege, sales, gross income or other tax imposed on or measured by the License Fee paid to Company (such expenses described in items (i) through (iv) above collectively, the "Taxes"). Company shall have the right to pay any or all Taxes and upon demand by Company, Licensee shall immediately reimburse Company for such payments in accordance with Section 4(d) below.

(b) Other Expenses. In addition to the Taxes, and unless otherwise specified herein, Licensee shall bear all costs and expenses of whatever kind and nature that arise from this License.

(c) Interest. Licensee agrees to pay to Company interest at the rate of the ten percent (10%) per annum upon any and all amounts whatsoever due to Company under this Agreement, including, but not limited to, the License Fee, Taxes and reimbursements, from the date payment of each such amount is due until the date such amount is actually received by Company.

(d) Reimbursement to Company. If Company shall have made payments on behalf of Licensee for any Taxes or other costs or expenses described in this Section 4, Licensee shall reimburse Company within ten (10) days from the date Company verbally notifies Licensee of such payments. Company shall have a lien on any Licensee-owned property located upon the Property as security for repayment of said amount.

5. USE.

(a) Qualifications on Use. Licensee shall neither use nor permit any use of the Property for any purpose other than that set forth in Section 1 hereof. The License granted under this Agreement is subject to all easements, leases, liens, conditions, restrictions, encumbrances and claims of title that affect the Property. Licensee accepts the Property (including, without limitation, all Company-owned improvements) in its present condition and without any representation or warranty by Company as to the condition of such Property. Company shall not be responsible for or liable to Licensee for any defect or change of conditions in the Property or any damage occurring thereto or for the existence of any violation of any municipal, county, state or federal law, order, rule, regulation or ordinance. Unless previously agreed to in writing by Company, Licensee shall not do or permit any others to do any of the following on the Property at any time: (i) explore for, mine, extract or remove any minerals of any kind or character, including, without limitation, oil, natural gas, hydrocarbon substances, geothermal steam, brines or minerals in solution, quarry, stone, sand or gravel, (ii) create or leave any waste of any kind or nature whatsoever, (iii) remove any earth or soil, (iv) destroy, cut or remove any standing or lying timber,

trees or firewood, (v) create or cause any nuisance, (vi) commit any unlawful or immoral acts or (vii) display any sign or notice other than as specified in Section 5(d) of this Agreement.

(b) Reservation of Company's Rights. Company reserves the right to conduct the following activities upon the Property and/or retains the following rights during the term of this Agreement:

(i) to construct, reconstruct, maintain and use ditches, flumes, roads, trails, tracks, pipe, signal, telegraph, telephone, communication and power transmission lines and facilities in, upon and over the Property;

(ii) all water rights appurtenant to the Property and the right to all water subject to appropriation and use thereon, except such water as may be reasonably necessarily and beneficially used by Licensee in connection with the Activity conducted by Licensee on said Property during the term of this Agreement;

(iii) the exclusive rights to all minerals, including, but not limited to, oil, gas and hydrocarbon substances, within or underlying the Property or that may be produced therefrom and all trees and timber thereon, including the right to cut and remove said trees and timber and to prospect on the Property for said water and said minerals and to mine, drill for and remove the same; and

(iv) the right to use said Property for any and all purposes consistent with Licensee's conduct of the Activity on the Property during the term of this Agreement.

(c) Gates. Licensee shall have the right to erect and maintain locked gates across any road entering the Property; provided, however, that Company, its employees, agents, successors and assigns, shall have the right to pass through any such locked gates at any time. Each such gate shall be provided with a link chain that may be fitted with multiple locks so that all persons authorized to use the same may have separate locks and keys and may open such gate independently of any other person.

(d) Signs. A sign reading "RIGHT TO PASS BY PERMISSION, AND SUBJECT TO CONTROL OF OWNER: SECTION 1008, CIVIL CODE SIERRA PACIFIC LAND & TIMBER COMPANY" shall be erected and maintained by and at the sole cost and expense of Licensee along all roads at each point of entry upon the Property.

(e) Trail Sections. As to any part of the Property herein designated as "Trail Sections," so long as such does not unreasonably interfere with Licensee's conduct of the Activity on the Property, Licensee shall permit any and all persons to drive their livestock over and across the Property so designated whenever it is necessary to afford a passageway to, from or through real property leased by Company; however, Licensee shall not permit trailing of livestock across any of the Property included in this Agreement not specified as "Trail Sections" without prior written permission from Company.

(f) Damage or Destruction. If Licensee causes the destruction of any of Company's land, crops, grass, trees, livestock, improvements or other property on the Property, Licensee agrees to promptly repair or pay the full replacement value of such damaged property (regardless of amortization) to Company, at Company's reasonable discretion.

(g) Condemnation. If any portion of the Property shall be taken or condemned for public use (including conveyance by deed in lieu of or in settlement of condemnation proceedings), this Agreement shall automatically terminate on the sooner of the order of possession or the date of the final order of condemnation. Licensee may receive compensation from the condemning governmental agency only for the taking and damaging of Licensee's improvements on the Property. Any other compensation or damages arising out of such taking or condemnation awarded to Licensee shall be assigned by Licensee to Company.

(h) No Campfires. Licensee shall instruct in writing each individual intending to enter the Property for any purpose permitted by the License that such individuals are strictly prohibited from starting or using campfires or other types of fire or flames of any kind while on the Property excepting therefrom self-contained, gas powered barbeques with a minimum clearance of 10 feet of all flammable vegetation or other substances conducive to the spread of fires around the perimeter of the barbeque.

(i) In the event Licensee's activities on the Property include the collection of data of any nature, upon Company's request, Licensee shall make available to Company, at Company's expense, all reports, data and all other information and items developed or prepared by Licensee as a result of its activities conducted on the Property. Company and Licensee agree that, unless otherwise required by applicable law, neither of them will disclose any reports, data or other information or items developed or prepared by Licensee as a result of its activities on the Property without the prior written approval by the other of the form, content and proposed recipient of such disclosure.

6. INSPECTION.

Company and its agents and employees shall have the right to enter in and upon the Property at any time to inspect Licensee's operations and confirm that Licensee is complying with this Agreement.

7. INSURANCE.

(a) At all times during the term of this Agreement, Licensee shall procure and maintain, at its own expense, all of the following coverage and in the amounts described below, any or all of which may be provided by way of a commercially reasonable self-insurance program:

(i) Workers' Compensation insurance, which includes a waiver of subrogation if jurisdictionally permissible, conforming to all applicable statutory requirements of the State of California;

(ii) Regardless of the minimum statutory requirements of the State of California, Employer's Liability coverage, which includes a waiver of subrogation if jurisdictionally permissible, with minimum limits of no less than \$1,000,000;

(iii) Commercial General Liability ("CGL") insurance shall be maintained with minimum limits of \$1,000,000 each occurrence; and \$1,000,000 General Aggregate. CGL insurance shall include a waiver of subrogation if jurisdictionally permissible, be written on ISO occurrence form CG 00 01 or equivalent and shall cover liability arising from premises, operations, independent contractors, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Such CGL insurance shall name and include Company and all parents, subsidiaries and affiliates of Company, and their respective officers, directors, agents and employees (all of the foregoing collectively, the "Additional Insureds"), as additional insureds using ISO additional insured endorsement CG 20 10 04 13 or its equivalent;

(iv) Commercial Automobile Liability ("CAL") insurance shall be maintained with minimum limits of \$1,000,000 per accident. CAL insurance shall include a waiver of subrogation if jurisdictionally permissible and shall include coverage for any owned, non-owned, leased or hired vehicle written on an insurance industry standard form (CA 00 01) or equivalent. Such CAL insurance shall name and include the Additional Insureds as additional insureds; and

(v) If applicable, Loggers' Broad Form Property Damage ("LBF") insurance, with minimum limits of \$2,000,000 each occurrence. Such LBF insurance shall include a waiver of subrogation if jurisdictionally permissible, shall name and include the Additional Insureds as additional insureds using ISO additional insured endorsement CG 20 10 04 13 or its equivalent.

(b) All policies and coverage procured by Licensee as required herein (collectively, "Policies") shall include a separation of insureds clause. The Policies shall not include a deductible in excess of \$10,000 per loss without Company's written approval. The Policies shall be endorsed to include (i) a waiver of subrogation where required, (ii) for any coverage as to which any Additional Insured is named and included as an additional insured, a provision that specifies the Policies are primary and that any insurance or self-insurance maintained by Company or any other Additional Insured shall not contribute with it and (iii) that the applicable waiver of subrogation shall not affect the Company's right, or any other additional insured's right, to recover under such insurance policy. If Company or any other Additional Insured has other insurance that is applicable to any loss on an excess or contingent basis, the amount of Licensee's liability under the Policies cannot be reduced by the existence of such other insurance. Licensee shall provide Licensee's insurance agent or broker with a complete copy of all insurance requirements set forth in this Section 7.

(c) All Policies described shall be procured to the satisfaction of Company and shall be underwritten by an insurer acceptable to Company (must be rated A-: VII or better in the A.M. Best's Key Rating Guide and licensed to do business in the state in which the Property is

located). At Company's election, Company shall be entitled to inspect original Policies or require complete certified copies of Policies at any time. Prior to entering the Property, Licensee shall furnish Company with certificates of insurance and endorsements of all required insurance for Licensee. Such certificate of insurance shall provide that the coverage required herein shall not be cancelled or reduced except by written notice to Company, giving at least thirty (30) days prior to the effective date of such cancellation or reduction. In the event the coverage evidenced by any such certificate is cancelled or reduced, Licensee shall procure and furnish to Company, before the effective date of such cancellation or reduction, a new certificate conforming to the above requirements. If Licensee has failed for any reason to secure the Policies to the satisfaction of Company upon execution of this Agreement, or if Company has not been furnished a certificate of insurance as aforesaid within twenty (20) days from the Effective Date, then Company shall have the right, in addition to any other remedy available to it, to (i) immediately terminate this Agreement on written notice to Licensee or (ii) secure any or all of said Policies and Licensee shall immediately reimburse Company for the cost of such Policies upon request by Company.

(d) If Licensee's CAL required by Section 7(a)(iv) above covers scheduled automobiles only, in no event shall Licensee operate, on any property owned by Company or any parent, subsidiary or affiliate of Company, any automobile that is not specifically listed on the schedule of insured automobiles issued by Licensee's insurer as required in this Section 7.

_____ **Initials by Licensee** _____ **Initials by Company**

(e) Licensee shall require any subcontractors to maintain in full force and effect commercially reasonable insurance coverage substantially similar in form and substance to the insurance coverage required of Licensee in this Section 7, including applicable waiver of subrogation and additional insured requirements, as appropriate to the nature of subcontractors' operations, each with minimum limits of no less than \$2,000,000 each occurrence and/or general aggregate, as applicable, unless otherwise agreed to by Company in writing. Licensee shall be solely responsible for monitoring compliance by such subcontractors with the aforementioned insurance requirements.

(f) Notwithstanding any other provision of this Agreement, and separate and apart from any obligation of Licensee to indemnify, if Licensee's insurance carrier fails or refuses to defend or indemnify pursuant to an additional insured endorsement because of a failure to obtain an additional insured endorsement, policy deductible, self-insured retention or unauthorized coverage deletion, Licensee shall stand in the place of its insurer and defend and indemnify to the same extent that an insurer issuing the coverage as required herein would under applicable law.

(g) All insurance certificates or other evidence of coverage required to be submitted to Company pursuant to this Section 7 shall be sent to:

Sierra Pacific Land & Timber Company
c/o Sierra Pacific Industries
PO Box 496014
Redding, CA 96049
ATTN: Insurance Administrator
E-mail: insurance@spi-ind.com

8. COMPLIANCE WITH ALL APPLICABLE LAWS AND RULES.

(a) Licensee expressly understands and agrees that Licensee is responsible for abiding by and complying with all applicable federal, state, county and local laws, rules, regulations and ordinances, including, but not limited to, all “Hazardous Materials Laws” (as defined below) and all other laws related to forestry, logging and log hauling (if applicable); endangered species; wages and hours worked, including, but not limited to, the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, et seq.; State Forest Practice Regulations; social security; unemployment insurance; workers’ compensation; executive orders; OSHA; Cal/OSHA; labor code laws; migrant workers; seasonal workers; safety; environmental protection; and any other requirements set forth in this Agreement.

(b) For the purposes of this Agreement, “Hazardous Material Laws” shall include any and all federal, state and local laws, regulations, ordinances, codes and policies relating to substances, chemicals, wastes, sewage or other materials that are regulated, controlled or prohibited; or relating to pollution or protection of the environment, of natural resources or of public health and safety, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the California Hazardous Waste Control Act, Cal. Health & Saf. Code § 25300, et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Cal. Health & Saf. Code § 25249.8, et seq.; and the California Porter-Cologne Water Quality Control Act, Cal. Water Code § 13000, et seq.

(c) **Licensee shall, to the extent they apply, abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin and require affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.** The applicable non-discrimination statutes of the state in which the Property is located are incorporated. To the extent applicable, 29 Code of Federal Regulations (C.F.R.) Part 471, Appendix A to Subpart A, as well as any E-Verify obligations described in FAR 52.222-54, are incorporated by reference. If Licensee is required by federal regulations to file Employer Information Report EEO-1 (standard form 100) or Federal Licensee Veterans’ Employment Report VETS-4212, Licensee certifies that it has done so or will file such reports in accordance with applicable instructions and will continue to file such reports unless or until no longer required by law or regulation.

(d) Licensee shall strictly enforce with all its agents and employees “No Smoking” regulations throughout the entire time Licensee is performing the Activity. Use of any tobacco product is strictly prohibited on any property owned by Company at which a manufacturing facility is operated and Licensee and its agents and employees shall strictly observe Company’s “No Tobacco Products” policy and shall not use any form of tobacco products while upon such Company property. Licensee shall comply with all other regulations related to fire

prevention, including, but not limited to, the location of fire tool caches and any other equipment that may be required by the United States Forest Service or California Department of Forestry and Fire Protection.

(e) Licensee shall make every reasonable effort to control and extinguish every fire on the Property immediately when Licensee becomes aware of such fire's existence, without waiting for instructions from a forester, warden or ranger, and Licensee shall continue to make every reasonable effort to control and extinguish such fire until it is extinguished. Provided Licensee is not at fault for the origination of any such fire, Company will compensate Licensee for such efforts at the equipment and operator rates specified in **Exhibit B** attached hereto and incorporated herein.

9. INDEMNITY.

To the extent not prohibited by applicable law, Licensee and Company (in such capacity, the "Indemnitor") shall each indemnify and hold harmless the other (in such capacity, and including such party's successors, assigns, officers, directors, employees, agents, representatives, parents, subsidiaries and affiliates, the "Indemnitees") from and against all claims, liabilities, losses, damages or expenses arising out of or relating to all acts, failures to act or other conduct of Indemnitor (or Indemnitor's employees, agents, representatives, independent contractors, material and equipment suppliers and any other entity or individual for whom Indemnitor is responsible), whether occurring in connection with Indemnitor's completed or ongoing operations, including claims, liabilities, losses, damages, expenses or costs and attorney's fees incurred on such claims, including, without limitation, proving the right to indemnification, arising out of or relating in part to the active negligence or other fault of any one or any combination of the Indemnitees. However, Indemnitor's total liability to the Indemnitees for any claims, liabilities, losses, damages or expenses caused in part by the negligence or other fault of Indemnitor (or Indemnitor's employees, agents, representatives, independent contractors, material and equipment suppliers and any other entity or individual for whom Indemnitor is responsible) and in part by the negligence or other fault of any one or any combination of the Indemnitees or any other negligent entity or individual, shall not exceed the percentage share that Indemnitor's negligence or other fault bears to the total negligence or other fault of the Indemnitees, Indemnitor and all other entities and individuals. This indemnity provision is not intended to and shall not in any way limit the extent of any insurance coverage available to any of the Indemnitees under any insurance policy purchased and maintained by Indemnitor (even coverage for any one or any combination of the Indemnitees' sole active negligence).

Licensee agrees to being added to any arbitration or litigation with third parties in which the Company Indemnitees allege indemnification or contribution from Licensee, or any of its subcontractors. Licensee will ensure that all of its subcontractors will, in their subcontracts, also agree to this provision and, in the event they do not, the Licensee shall be liable in place of any such subcontractor(s).

10. LIENS.

Licensee shall not suffer or permit, and shall immediately remove or discharge, any lien, including, but not limited to, any mechanics', loggers' or lumbermen's lien, arising out of or related to, whether directly or indirectly, Licensee's Activity or the use of any materials or equipment used in connection therewith, filed against the Property or any of Company's personal property for any reason whatsoever. Company has the right to post notices of non-responsibility upon the Property, and to otherwise notify, actually or constructively, any entity or persons supplying services or materials to the Property that Company is not responsible for the cost thereof.

11. SURRENDER OF PROPERTY.

Upon the termination or expiration of this Agreement, Licensee shall discontinue the use of the Property and, within sixty (60) days, remove all of Licensee's property from the Property. Licensee shall restore the Property to a substantially similar condition in which it existed on the Effective Date. Property of Licensee not removed from said Premises within sixty (60) days after the termination or expiration of this Agreement shall become the property of Company. Licensee shall reimburse Company for the cost and expense incurred by Company in restoration of the Property and disposing of Licensee's property that Licensee did not timely remove. If Licensee fails to surrender possession of the Property upon termination or expiration of this Agreement, Company shall have the right, to the extent permitted by law, to re-enter the Property and remove Licensee and any person or entity claiming through Licensee from the Property.

12. DEFAULT; TERMINATION.

In addition to the rights of Licensee and Company to terminate this Agreement under Sections 2 and 7(c), as applicable, if Licensee fails to comply with each and every term and condition of this Agreement and upon written notice to Licensee and the passage of twenty (20) days, during which Licensee may attempt to cure such breach, Licensee shall be in default of this Agreement and, in that instance, Company shall have the right to do one or both of the following: (i) immediately terminate this Agreement upon written notice to Licensee and, upon such termination, the parties shall have no further obligation to one another, except for those obligations that survive the termination of this Agreement as expressly set forth herein; or (ii) pursue any and all other remedies provided by law or available in equity.

13. NOTICE.

Written notices from one party to the other shall be given by one of the following methods: (a) United States registered mail, return receipt requested, and said notice shall be deemed to have been given three (3) days after said notice is deposited into the United States mail; (b) personal delivery, and said notice shall be deemed given upon such delivery; or (c) next business day delivery by a recognized overnight delivery service, and said notice shall be deemed given upon delivery by such service at the following addresses or at such other address of which either party shall advise the other in writing:

To Company: Sierra Pacific Land & Timber Company
c/o Sierra Pacific Industries
PO Box 496014
Redding, CA 96049-6014

With a copy to: David H. Dun
Dun & Martinek LLP
2313 I Street
Eureka, CA 95501

To Licensee: County of Sierra
PO Box 98
Downieville, CA 95936
Attention: Tim H. Beals

14. INDEPENDENT CONTRACTOR.

Licensee expressly understands and agrees that Licensee is and shall be deemed to be an independent contractor. Nothing in this Agreement shall be construed as being or creating an employer-employee relationship, a partnership or a joint venture between the parties. Company shall have no responsibility with respect to Licensee's employees or agents, nor any control over them. Company shall not in any way control the means by which Licensee conducts the Activity as contemplated in this Agreement. Licensee shall have no authority to and shall not represent that it has any authority to bind or obligate Company in any manner.

Licensee agrees to and does accept exclusive liability with respect to employment of persons in the conduct of the Activity and the performance of its obligations as contemplated in this Agreement, including employment of subcontractors, for the performance of any and all obligations imposed upon employers under any unemployment compensation, pension, social security, income tax or other similar and applicable federal, state or local laws now in force or which hereafter become effective or enacted, including the payment and/or deduction and remittance of any and all contributions, taxes, fees or charges under such laws, and Licensee agrees to fully comply with and to make all returns required by any and all such laws.

15. MEDIATION; ARBITRATION.

(a) The parties covenant to attempt in good faith to resolve all disputes or controversies that arise out of or relate to this Agreement. If the parties cannot in good faith resolve any such dispute or controversy, such dispute or controversy shall be submitted to mediation in accordance with the rules of the American Arbitration Association. In the event the parties are unable to finally resolve any dispute or controversy through such mediation within a commercially reasonable period of time, the parties shall submit any such dispute or controversy to arbitration in accordance with Sections 15(b) or 15(c) below, as applicable.

(b) In the event the parties are unable to resolve any dispute or controversy through mediation in accordance with Section 15(a) above, and the amount in controversy is

\$100,000 or less, such dispute or controversy shall be submitted to arbitration in accordance with the rules of the American Arbitration Association. With respect only to any such dispute or controversy that is in an amount of \$100,000 or less, the parties to this Agreement (i) expressly waive their rights to utilize federal or state courts to resolve any such dispute or controversy and (ii) agree that the decision of the arbitrator shall be final and binding on all parties and may be entered as a judgment in court of competent jurisdiction.

(c) In the event the parties are unable to resolve any dispute or controversy through mediation in accordance with Section 15(a) above, and the amount in controversy is more than \$100,000, such dispute or controversy may (i) if agreed by the parties, be submitted to binding or non-binding arbitration, as the parties may agree, in accordance with the rules of the American Arbitration Association or (ii) be submitted to any federal or state courts having jurisdiction to resolve any such dispute or controversy.

(d) If arbitration or court action is necessary to resolve any alleged dispute, breach, default or misrepresentation in connection with this Agreement, the “Prevailing Party” (as defined below) shall be entitled to recover reasonable attorneys’ fees and costs in addition to any other relief to which the party may be entitled. Any such attorneys’ fees and costs incurred by the Prevailing Party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such obligation to pay attorneys’ fees and costs is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment. If the dispute or controversy is resolved through arbitration, the “Prevailing Party” shall be the party determined to be the prevailing party by an arbitrator or arbitration panel.

(e) Notwithstanding the foregoing, nothing contained in this Section 15 shall prevent either party hereto from seeking and obtaining injunctive relief against the other party’s activities in breach of this Agreement.

16. SURVIVAL.

The provisions of Sections 4, 5(f), 5(g), 9 through 16, 18 through 20, 22, 24, 26 and 27 shall survive expiration or termination of this Agreement.

17. ASSIGNMENT.

This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto, but this Agreement is not assignable without Company’s prior written consent. Any assignment in violation of this provision shall be deemed null and void.

18. ENTIRE AGREEMENT AND MODIFICATION.

This Agreement, together with any and all attachments and Exhibits, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any changes to this Agreement made by the parties shall be invalid unless executed in a writing signed by all parties.

19. GOVERNING LAW.

This Agreement shall be governed by and construed in all respects in accordance with the laws of the State of California, without giving effect to its choice of law rules.

20. HEADINGS.

The headings within this Agreement are inserted for convenience of reference only and not to define, describe or limit the scope or the intent of this Agreement or any term hereof.

21. COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

22. WAIVER.

No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligations specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of any party's right to demand strict compliance with the terms hereof; provided, however, that any party may, at its sole option, waive any requirement, covenant or condition herein established for the benefit of such party without affecting any of the other provisions of this Agreement.

23. FURTHER ASSURANCES.

Licensee and Company each agree to execute and deliver to the other such further documents and instruments as may be reasonable and necessary in furtherance of and to effectuate the intent of the parties as expressed by the terms and conditions in this Agreement.

24. INTERPRETATION.

Licensee and Company acknowledge this Agreement has been negotiated at arm's length; each party has had an opportunity to review and revise this Agreement and has been extended an opportunity to have legal counsel review and revise this Agreement. No rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Agreement.

25. TIME IS OF ESSENCE.

Time is of the essence in this Agreement, and Licensee shall diligently perform all of its obligations hereunder.

26. SEVERABILITY OF PROVISIONS.

If any provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to any party. Upon any such determination, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible. Notwithstanding any other provision of this Agreement, the invalidation of any provision herein relating to the parties' remedies shall not be interpreted to prevent an injured party from seeking actual damages.

27. NO THIRD PARTY BENEFICIARY.

Nothing in this Agreement, express or implied, is intended to confer on any person other than the parties hereto and their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

LICENSEE

COMPANY

By: _____
Title: _____

Sierra Pacific Industries, its Manager
By: Eric Sweet
Title: Tahoe District Manager
Division: Forestry

EXHIBIT A

Description of the Property

Plum Valley Park as located south of Ridge Road within a portion of the SW $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 3, T 18N, R9E MDBM (APN SIE 006-020-001) & a portion of the NW $\frac{1}{4}$, NW $\frac{1}{4}$, NW $\frac{1}{4}$ of Section 10, T18N, R9E MDBM (APN SIE 006-020-012); further depicted on the attached map in Exhibit A-1.