ORIGINAL

FIRST AMENDMENT TO OPERATING AGREEMENT
(Crown Memorial State Beach)

THIS FIRST AMENDMENT TO OPERATING AGREEMENT, made and entered into this 7th day of August, 2002, by and between the EAST BAY REGIONAL PARK DISTRICT, a California special district, acting through its BOARD OF DIRECTORS, hereinafter called the "District", and the CITY OF ALAMEDA, a municipal corporation, hereinafter called the "City".

WHEREAS, the District and City entered into and executed an Operating Agreement dated May 29, 1967, in which the District agreed to care for, operate, maintain and control certain public beach property owned by the City; and

WHEREAS, when the Operating Agreement expired on May 28, 1992, the District and City agreed informally to continue performance under the original terms of the Operating Agreement, and did so perform; and

WHEREAS, the parties hereto desire to formally extend the term of the Operating Agreement an additional 25 years, and to provide for an additional 25-year option term.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, District and City hereby further promise and agree:

1. The term of the operating Agreement shall hereby be extended to July 31, 2027.

2. The District is hereby granted the option or privilege to extend the term for an additional twenty-five (25) years beginning after the expiration of the extended term on July 31, 2027, provided District gives City at least six (6) months prior written notice of its intention to exercise said option or privilege.

3. The District reserves the right to cancel this agreement with the City if the District's financial resources are insufficient to operate and maintain Crown Memorial State Beach, provided District gives City at least six (6) month's prior written notice of its intention to exercise said option or privilege.

4. District will operate and maintain Crown Memorial State Beach in its entirety including all State-owned, District-owned and City-owned properties. All taxes, fees and assessments of any kind levied upon the properties of the City, District and/or State for Crown Memorial State Beach shall be waived by the City of Alameda for the term of this Extension of Operating Agreement and any further extensions provided for herein.

5. The City is required to implement provisions of the Clean Water Act via its adopted stormwater program. The City's stormwater program has been developed as part of a Countywide Program and National Pollutant Discharge Elimination System (NPDES) permit approved by the Regional Water Quality Control Board (Regional Board). The City is responsible to ensure compliance with provisions of this permit within its jurisdiction. The City's program includes the following elements: Public Information and Participation, Municipal Maintenance, New Development, Industrial and Illicit Discharge Control, and Watershed Management.

   The City instituted fees to cover program costs, which were extended to previously exempt agencies within the City's jurisdiction. The District agrees to implement stormwater management activities within Crown Memorial State Park pursuant to the Federal Clean Water Act and as required by the City's NPDES permit in lieu of payment of a stormwater utility fee. The City recognizes that the District currently implements stormwater management activities at said property. This provision is intended to ensure these activities are consistent with the City's Stormwater Program and to comply with reporting requirements of the Regional Board. The District agrees to implement the management activities at said property and shall:

   a. Clean all debris from catch basins and culverts as necessary in accordance with the Countywide Program's Stormwater Management Plan and the NPDES permit requirements;

   b. Incorporate water conservation measure during irrigation activities. Water on an "as needed" or limited basis instead of a strict schedule to avoid water surcharge onto streets and gutter system;

   c. Immediately clean and remedy any leak, spill or other type of illicit discharge;

   d. Employ Best Management Practices (BMP's) consistent with those identified on the attached fact sheets;

   e. Regularly inspect and maintain the on site retention basin. The Regional Water Quality Control Board requires all stormwater controls within the City be inspected and maintained. To meet this permit requirement, these tasks should include but not be limited to inspection and maintenance of: inlet and outlets to ensure proper flow of runoff, and sedimentation levels to manage efficiency.

      Capital expenditures related to the retention basin would be undertaken in the sole discretion of the District. Any dredging completed in the retention basin will require that the District obtain

permits as required by law. The timeline for the completion of this dredging activity is a lengthy process and therefore cannot be predicted. After the District has completed the initial dredging of the retention basin, the District will then maintain the structure as agreed herein.

f. Staff a minimum of three public outreach events for a minimum of three hours per event per year, including the City's Annual Earth Day event.

g. Provide a memo report and meet with the City twice per year, at the beginning of December and June, in order for the City to comply with the Regional Board's requirement that the City complete and submit semi-annual reports to the Board.

6. The parties desire to modify paragraph 7 of the original Operating Agreement to state: "In particular, no utility box or structure may be placed on said property without obtaining the prior written approval of the City." This provision shall be inserted immediately following the sentence which reads: "Such development, construction, or improvement … shall be subject to prior approval in writing by the City."

7. All other terms and conditions of the Operating Agreement shall remain in full force and effect.

8. This agreement shall be executed in counterpart by the District and City.

BOARD OF DIRECTORS OF THE
EAST BAY REGIONAL PARK DISTRICT

Ayn Wieskamp
President

Attest: Debra Fassler
Secretary

APPROVED AS TO FORM:

District Counsel

CITY OF ALAMEDA
a Municipal Corporation

By
Title Assistant City Manager

RECOMMENDED FOR APPROVAL

By
Title Recreation + Park Director

APPROVED AS TO FORM:

City Attorney

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO. 2002-9- 184

September 3, 2002

AUTHORIZATION TO AMEND AND EXTEND THE OPERATING AGREEMENT
WITH THE CITY OF ALAMEDA: CROWN MEMORIAL STATE BEACH

WHEREAS, by Resolution No. 2757 adopted November 2, 1966, the Board of Directors authorized the District to enter into an Operating Agreement with the City of Alameda for the use and operation of City's property located along Shoreline Drive as a public beach; and

WHEREAS, this Operating Agreement has been extended by informal agreement between the District and City since 1992; and

WHEREAS, the City of Alameda has agreed to complete a formal written extension of this Operating Agreement providing for the extension of the term of the Operating Agreement to July 31, 2027, with an option to renew the term of the Operating Agreement for an additional 25 years; and

WHEREAS, the City of Alameda and the District have agreed by amendment to this Operating Agreement that the District will not complete any construction or improvements or install utility boxes or structures on City property without the express written consent of the City of Alameda; and

WHEREAS, the City of Alameda and the District have agreed by amendment to this Operating Agreement that the City will not assess the District any taxes or fees, including those related to the requirements of the Clean Water Act as implemented by the City of Alameda through the Countywide Program and National Pollutant Discharge Elimination System Permit during the term of this Operating Agreement; and

WHEREAS, all other terms and conditions of the Operating Agreement dated May 29, 1967, shall remain the same;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the East Bay Regional Park District hereby authorizes the General Manager, on its behalf, to amend and extend the Operating Agreement with the City of Alameda for the use and operation of the City's land located along Shoreline Drive as a public beach; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director Radke, seconded by Director Siri, and adopted this 3rd day of September, 2002 by the following vote:

FOR: Directors Beverly Lane, Ted Radke, Carol Severin, Douglas Siden, Jean Siri, John Sutter, Ayn Wieskamp

AGAINST: None
ABSTAIN: None
ABSENT: None

CERTIFICATION
I, Debra Fassler, Clerk of the Board of Directors of the East Bay Regional Park District, do hereby certify that the above and foregoing is a full, true, and correct copy of Resolution 2002-9-184 adopted by the Board of Directors at a regular meeting held on September 3, 2002.

Debra Fassler