ATTACHMENT 1

City of Napa
Agreement No. C2018-304

LICENSE AGREEMENT

This Agreement made by and between the CITY OF NAPA, a California charter city, hereinafter referred to as "City", and Mad Dog Presents, LLC, a New Jersey limited liability company, hereinafter referred to as "Licensee" is effective on the Effective Date identified on the signature page.

WHEREAS, the City holds an easement for recreational purposes over the area commonly known as Oxbow Commons ("Oxbow Commons"); and

WHEREAS, Licensee desires to use a portion of the Oxbow Commons depicted in Exhibit "A" attached hereto and incorporated herein by reference (the "Premises") for the purpose of erecting and maintaining a 60 foot x 60 foot stage from June 1, 2019 to October 31, 2019, which will be used by Licensee to host a concert series at the Oxbow Commons; and

WHEREAS, as part of a pilot program to allow a stage to be located in the Oxbow Commons for a 5-month period for the production and promotion of concerts and other events ("Pilot Program"), City is willing to grant a license to Licensee for use of the Premises upon the terms and conditions and for the purposes set forth herein.

NOW, THEREFORE, IT IS AGREED by the parties hereto as follows:

1. **Grant of License**. Subject to Section 12, City grants to Licensee a non-exclusive license to use the Premises for the sole purpose of erecting, maintaining, and leaving in place during the Term a 60-foot x 60-foot stage ("Stage") to be used by Licensee for producing music concerts and other events, subject to the following use restrictions:

   a. The Stage shall be located in the area depicted on Exhibit "A" attached hereto and incorporated herein by reference.

   b. During the Term of this Agreement, Licensee shall produce on the Premises a minimum of five (5) free music concerts or other events open to the public and may produce up to fifteen (15) paid ticketed music concerts or other events (collectively, "Event Series"). The music concerts or other events in the Event Series (each, an "Event") may be promoted by Licensee or by a third party pursuant to an agreement with Licensee.

   c. Prior to producing an Event on the Premises regardless of whether the Event is promoted by Licensee or a third party, Licensee shall apply for and obtain, a special event permit from the City in accordance with Napa Municipal Code Chapter 12.48 ("Special Event Permit"). Use of the Premises by Licensee to produce an Event is subject to availability on a first come, first served basis, and the City's reservation procedures and policies. The Licensee is not guaranteed use of the Premises on a particular date until Licensee secures a Special Event Permit for that date. The dates which the Premises are currently booked and unavailable for use by the Licensee are listed in Exhibit "B" attached hereto and incorporated herein by reference, and may be subject to change. The Licensee understands that the issuance of a Special Event Permit is required for all Events produced by Licensee on the Premises regardless of whether the Event is promoted by Licensee or a third party and issuance of the Special Event Permit will not be unreasonably withheld by the City. The Licensee shall apply for a Special Event Permit for each Event produced by Licensee on the Premises, for a total of up to twenty (20) Special Event Permits for the Event Series.

   d. Any Special Event Permit issued to Licensee for production of an Event on the

Premises shall include, but not be limited to, the following terms:

(1) Licensee shall provide a security deposit in the amount of $1,000 ("Security Deposit"). The Security Deposit may be used by City to repair damages caused by Licensee at any time during the Term of this Agreement and to pay for additional City staff time required to correct any damages caused by Licensee if the Licensee does not affect said repair within 5 days of receiving notice to do so from the City. Should the City use any or all of the Security Deposit, Licensee will immediately replenish the used portion. The unused portion of the Security Deposit will be returned to Licensee by November 30, 2019; provided however, if the Term of this Agreement is extended in accordance with Section 2, Licensee shall provide the Security Deposit to City prior to commencement of the Extended Term.

(2) Licensee shall provide private event security for each Event held on the Premises.

(3) Licensee shall obtain all required permits for each Event, including hiring a caterer with an Alcohol Beverage Control permit, the ("Event Caterer") and County Health permit.

(4) Licensee shall not be required to pay an application fee for a Special Event Permit but shall be responsible for all other fees and costs, including the cost for any additional City staff time required for the Events in accordance with the City's Special Event Policy. These additional costs, if any, will be presented to the Licensee prior to or upon approval of a Special Event Permit.

e. Licensee shall have exclusive use of the Stage and shall be solely responsible for operation and maintenance of the Stage, including production of the Event Series and any other events held on the Stage by Outside Parties (defined below); provided however, Licensee, at its sole discretion, may give its written consent to a third party to promote an event on the Stage. Notwithstanding the foregoing, Licensee shall make the Stage available for use by third parties that are not a part of the Event Series, including those parties hosting the events listed in Exhibit "B" of this Agreement ("Outside Parties") to promote concerts or other events when it is not being used by Licensee for the Event Series pursuant to a written agreement between Licensee and the Outside Party. Licensee may charge Outside Parties a commercially reasonable fee for use of the Stage for a concert or other event and for production costs, which Licensee shall negotiate in good faith; provided however, Licensee shall charge Outside Parties that are non-profit corporations or government agencies for production costs only. The License Fees in Subsections 3(b) and (c) shall apply to all Events regardless of whether the Event is promoted by Licensee or a third party pursuant to an agreement with Licensee, and Licensee shall be responsible for paying such fees to City in accordance with Section 3.

f. When the Stage is not in use by Licensee or a third party authorized by Licensee, it shall be secured by a chain-link fence six (6) feet in height. The fence shall be wrapped with a graphic fence screen approved by the City's Public Art Steering Committee.

2. **Term of License**. The term of this Agreement shall commence upon June 1, 2019 ("Commencement Date") and continue through October 31, 2019 ("Initial Term") unless terminated earlier as provided in Section 12 of this Agreement. Subject to Section 13 and provided that Licensee is not in default under the terms of this Agreement, this Agreement shall be extended at Licensee's option for two additional five-month terms (June 1, 2020 to October 31, 2020 and June 1, 2021 to October 31, 2021) (each an "Extended Term")

on the same terms except for the monthly flat fee which shall increase to $1700/month for 2020 and $2000/month for 2021. To exercise Licensee's option to extend the Term, Licensee shall notify City in writing prior to the expiration of the then-current term. The Initial Term and any Extended Terms shall hereinafter be collectively referred to as the "Term."

3. **License Fee**. As consideration for the rights granted to Licensee herein, Licensee shall pay to City during the Term the following fees for all Events produced by Licensee on the Premises regardless of whether the Events are promoted by Licensee or a third party ("License Fees"):

    a. Licensee shall pay to City a monthly flat fee of Fifteen Hundred Dollars ($1500) per month; and
    b. For each free Event for which Licensee or the Event Caterer receives food and beverage revenue, Licensee shall direct the Event Caterer to pay to City a fee equal to seven percent (7%) of the gross food and beverage revenue that the Event Caterer generates at the Event; and
    c. For each paid ticketed Event on the Premises, Licensee shall pay to City a fee based on the following schedule:
        (1) For each ticket sold that is $29 or less, $1 per ticket.
        (2) For each ticket sold that is between $30 and $59 dollars, $2 per ticket.
        (3) For each ticket sold by Licensee that is $60 or greater, $3 per ticket.
    d. Licensee shall pay the License Fees to the City by the 15th day of each month for the prior month. For example, the License Fees for the month of June shall be paid by July 15th, and the License Fees for the month of July shall be paid by August 15th. The monthly License Fees payment shall be accompanied by a report which contains the following information for each Event produced on the Premises during the reporting period:
        (1) the date of the Event;
        (2) the name of the entity promoting the Event;
        (3) the name of the attraction(s) appearing;
        (4) whether the Event was free or a paid ticketed Event;
        (5) for each Event that was free, the total monies that were received by Licensee or on Licensee's behalf from the sale of food and beverage at the Event;
        (6) if the Event was a paid ticketed Event, the price per ticket and the number of tickets sold at each price point;
        (7) the License Fees due for each Event produced on the Premises the prior month; and
        (8) the total License Fees due for the prior month.

Upon City's request, Licensee shall provide additional information regarding the Licensee's calculation of License Fees and copies of agreements with third parties for the promotion of events on the Premises.

4. **Conditions of License**. City grants the license to Licensee subject to the following conditions:

    a. Licensee acknowledges that the Premises are currently utilized as a public park and that their primary purpose and design is to support the Napa River Flood Control Project.

    b. By taking possession of the Premises, Licensee accepts the Premises in the condition existing on the Commencement Date. City makes no warranty or

representation, either expressed or implied, regarding the condition of the Premises or its suitability for Licensee's proposed use. City shall not be liable for any latent or patent defect in the Premises. City shall be responsible for removing any equipment or items associated with concerts or events promoted by Outside Parties on the Premises either before or during the Term so as not to impede on the Licensee's use the Premises.

c. Licensee may not limit public access to the Premises or to any existing or future public rights of way, public trails or public amenities except as authorized pursuant to a Special Event Permit.

d. Licensee shall comply with all requirements of Napa Municipal Code Chapter 12.48 and all conditions of approval of the Special Event Permit issued in conjunction with this Agreement.

e. In the event that the City or the Napa County Flood Control and Water Conservation District ("District") desires to make any repair, reconstruction, change, addition, or modification to the Premises including, but not limited to, the surface, subsurface, drainage system, water delivery system or other public facilities, utilities and/or infrastructure, Licensee shall, if required by City or District, vacate the Premises or relocate the Stage at Licensee's sole cost and expense. City agrees that it will consider other, equally feasible alternatives prior to requiring Licensee to vacate the Premises or relocate the Stage.

f. Licensee shall remove the Stage and any equipment from the Premises within 24 hours of Licensee's receipt of notice of a possible flood emergency from the District.

5. **Insurance**. Without limiting Licensee's indemnification obligations in Section 8, Licensee, and any third parties promoting events on the Stage, shall take out and maintain, throughout the Term, the following policies of insurance against injury and or death to persons or damage to property which may arise from or in connection with the activities hereunder of Licensee, it agents, employees or subcontractors:

   a. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of $2,000,000.00 per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate shall be twice the required occurrence limit. Said policy shall contain, or be endorsed with, the following provisions:

      (1) The City and the District, and their respective officers, employees and agents, are covered as insured for liability arising out of the operations performed by or on behalf of Licensee on the Premises. The coverage shall contain no special limitations on the scope of protection afforded to the City, the District, or their respective officers, agents and employees.

      (2) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

      (3) For claims related to Licensee's use of the Premises, the Licensee's insurance is primary coverage to the City, and any insurance or self- insurance programs maintained by the City is excess to Licensee's insurance and will not be called upon to contribute with it.

(4) Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to City, its officers, employees and agents.

b. Licensee shall furnish City with certificates and original endorsements effecting the required coverage prior to the Commencement Date. The endorsements shall be on forms provided by the City or as approved by the City Attorney. Any deductible or self-insured retention over $100,000.00 shall be disclosed to and approved by City. If Licensee does not keep all required insurance policies in full force and effect, City may, in addition to other remedies under this Agreement, take out the necessary insurance, and Licensee agrees to pay the cost of said insurance.

6. **Uses prohibited**. The Premises shall not be used or permitted to be used in whole or in part during the Term of this Agreement for any purpose or use in violation of the laws or ordinances applicable thereto. Licensee agrees at all times during the Term of this Agreement to comply with any and all federal, state, or laws, statutes, regulations, ordinances, policies, procedures or permits (including the Special Event Permit) now or hereafter enacted concerning the Premises or the conduct of Licensee in and on the Premises. Licensee shall not use, or permit said Premises, or any part thereof, to be used, for any purpose other than the purpose for which said Premises is permitted. Licensee shall not make, or cause to be made, any alterations to the Premises without the prior and express written consent of the City.

7. **No liens**. Licensee shall keep the Premises free from any and all liens arising out of Licensee's use of the Premises, materials furnished, or obligations incurred by Licensee.

8. **Indemnification and Release of Claims**.

a. Licensee Indemnification for Third Party Claims. To the fullest extent permitted by law, Licensee shall defend, indemnify and hold harmless the City, the District and their respective officers, employees and agents from and against any and all third-party actions, claims, demands, damages, disability, losses, expenses including attorney's fees and other defense costs and liabilities of any nature that may be asserted by any third party arising out of the activities of Licensee, its officers, employees, or agents hereunder ("Third Party Damages"), excepting those Third Party Damages due to the active negligence, sole negligence or willful misconduct of City. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Licensee under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Licensee and shall survive the expiration or termination of this Agreement.

b. Licensee Release of Claims. To the fullest extent permitted by law, Licensee shall release and hold harmless the City, the District and their respective officers, employees and agents from and against any and all claims by Licensee arising out of the activities of Licensee, its officers, employees, or agents hereunder, excepting those related to City's breach of this Agreement or those arising out of or related to the active negligence, sole negligence or willful misconduct of City.

c. No Indirect or Special Damages. Notwithstanding anything to the contrary set forth herein, in no event shall City or Licensee be liable to each other for any punitive, indirect, special, incidental or consequential damages, including but not limited to, loss of profits, loss of revenue, loss of business opportunity, loss of use or rental expenses whether or not such damages were foreseeable; provided however, this paragraph shall not limit Licensee's indemnification obligations under subparagraph (a) above.

9. **Hazardous Materials**.

a. Licensee agrees that it will not cause or permit any hazardous material (as defined herein) to be generated, brought onto, used, stored, released or disposed of on, under, about or within the Premises by Licensee, or its agents, employees, contractors, subcontractors, invitees or other third parties. In the event during the Term of this Agreement it is determined that the Premises is contaminated by hazardous materials through no action or inaction of Licensee, its employees, agents, contractors or invitees, Licensee shall have the right to terminate this Agreement upon thirty (30) days written notice to City, but shall not have the right to sue City for damages.

b. If either party becomes aware of any actual or threatened release of hazardous materials on, under, or about the Premises or any inquiry, investigation, proceeding or claim by any agency or person regarding the presence of hazardous materials on, under, or about the Premises, that party shall give the other party written notice of the same within five (5) days of learning of it and shall simultaneously furnish the other party copies of any claim, notices of violation, reports, or other writings received.

c. To the fullest extent permitted by law, Licensee shall, with counsel reasonably acceptable to City, indemnify, defend, release, and hold harmless City, its officers, agents, and employees, regarding all losses arising out of or resulting from Licensee's use or storage of any hazardous materials on or about the Premises, the release of any hazardous material in or about the Premises or the violation of any environmental law by Licensee, its agents, contractors, or invitees including, but not limited to, losses attributable to diminution in the value of the Premises, liability for penalties, costs, fines, claims, expenses, actions, acts of remediation, obligations, changes, etc., resulting from Licensee's use or storage of hazardous materials or any release or violation. This indemnification obligation shall survive the expiration or termination of this Agreement.

d. If the presence of any hazardous material brought onto the Premises by Licensee or Licensee's employees, agents, contractors, and/or invitees results in contamination of the Premises, Licensee shall promptly take all necessary actions, at Licensee's sole cost and expense, to return the Premises to the condition that existed prior to the introduction of such hazardous material; provided however, Licensee shall first obtain the City's approval of the proposed remediation action. Remediation shall not limit Licensee's indemnification obligation set forth above.

e. As used herein, hazardous materials shall mean any hazardous or toxic substance, material, or waste that is or becomes regulated by the federal, state or local government, including:

(1) "Hazardous substances" and "pollutants and contaminants" as defined in CERCLA, 42 USC §§960114 and (33) and regulations issued pursuant thereto;

(2) "Extremely hazardous substances," "hazardous chemicals," and "toxic chemicals" as defined in the Emergency Planning and Community Right to Know Act, 42 USC §§1102(a), 1121(e) and 1122(c) and regulations issued pursuant thereto;

(3) "Hazardous chemicals" within the meaning of OSHA's Hazard Communication Rules, 29 CFR §1910.1200;

(4) Any such materials regulated under state or local environmental laws and regulations similar to the foregoing federal authorities listed in 1-3 above; and

(5) Any materials not covered by, or exempted from, the sources listed in subsections 1-4 above that may nevertheless pose a threat to human health or welfare or to the environment including, without limitation, petroleum, including crude oil or any faction thereof, radon, PCB's, radioactive material, toxic pesticides and herbicide, solvents, and materials containing asbestos or formaldehyde.

10. **Notices**. Any notice or other communication under this Agreement shall be in writing and either served personally or sent by prepaid, first-class mail, addressed to the other party at the following addresses:

City: City of Napa
Attn: Parks and Recreation Director
P. O. Box 660
Napa, CA 94559

Licensee: Mad Dog
Presents LLC
Attn: Ken Tesler
PO Box 23
Vaxhall, NJ 07088

11. **No Assignment or Subletting by Licensee**. This Agreement is personal to Licensee. Licensee shall not voluntarily or by operation of law assign, transfer, sublet or otherwise transfer or encumber all or any part of Licensee's interest in this Agreement or in the Premises without City's prior written consent. Any request for assignment shall be accompanied by such data relating to the identity and financial condition of the proposed assignee and the material terms of the transfer as may be requested by City to make its decision. Any attempt to assign this Agreement or Licensee's obligations hereunder without the prior written consent of City is void, and at the option of City, shall terminate this Agreement.

12. **Termination**. This Agreement may be terminated as follows:

a. By either party for the other party's failure to cure a default or breach within fifteen (15) days after receipt of written notice thereof, provided that if a non- monetary default cannot reasonably be cured within such fifteen (15) day period, this Agreement shall not terminate if such defaulting party commences to cure the default within the fifteen (15) day period and works diligently towards curing the default after receipt of notice of such default.

b. By Licensee with 30 days' prior written notice if the Premises is or becomes unusable, or if Licensee determines that the Premises are no longer suitable for Licensee's intended purpose, without further liability to either party, and upon Licensee's satisfaction of its obligations set forth in this Agreement.

c. By City with 30 days' prior written notice in the event that City or the District requires the use of the Premises for any legitimate public purpose or need or in the event that Licensee's use and occupancy are in conflict with any existing or proposed public utilities or any proposed repair, construction, reconstruction, change or modification to the Premises, or to any public facilities, utilities or infrastructure located within the Premises, for which Licensee cannot or will not accommodate as required by City or District.

d. By City without notice in the event of any sudden, unforeseen or exigent circumstances that present a threat to public health or safety as determined by the City in its sole discretion.

e. In addition to the above, City may terminate this Agreement without notice pursuant to Napa Municipal Code 12.48.100 in the event that the Parks and Recreation Director determines that as a result of inclement weather, the Stage would unreasonably damage the Premises, or the Director determines that any provision of Napa Municipal Code Section 12.48 or any condition of approval of a Special Event Permit issued to Licensee in conjunction with this Agreement has not been met or is being violated.

13. **Reporting and Performance Objectives**.

a. **Progress Report**. By September 1st of each year during the Term, Licensee shall provide a progress report to the City describing, among other things, how Licensee has complied with the performance objectives set forth in this paragraph for the prior 3 months (the "Progress Report"). The City shall review the Progress Report and determine, in its sole and absolute discretion, and provide written notice to Licensee of its determination (1) whether Licensee has fulfilled the performance objectives set forth in paragraph (b) below, and (2) whether the City determines that there exists a material impediment to continuing the Pilot Program for an additional two years (if approved, such written notice, the "Progress Report Approval" and, if not approved, such written notice, the "Progress Report Denial"). The City shall provide to Licensee either the Progress Report Approval or the Progress Report Denial within 45 days of City's receipt of Licensee's Progress Report. Notwithstanding anything to the contrary set forth herein, if the City provides a Progress Report Denial, this Agreement shall terminate upon expiration of the Initial Term. For purposes of this subparagraph a "material impediment" includes, but is not limited to, City or public dissatisfaction with the Pilot Program or incompatibility of the Pilot Program with the primary uses and purposes of the Oxbow Commons. The parties understand and agree that identifying a potential replacement licensee shall not constitute a "material impediment" for purposes of this paragraph.

b. **Performance Objectives**. Licensee shall comply with the following performance objectives:

(1) Licensee shall comply with all terms and conditions of this Agreement and of any Special Event Permit issued by City for the Event Series;

(2) Licensee shall timely pay the License Fees to City;

(3) Licensee shall resolve any conflicts or issues related to use of the Stage in a timely and reasonable manner;

(4) Licensee shall achieve attendance goals mutually agreed to by the parties for the Event Series;

(5) Licensee shall maintain the Stage and the Premises in good condition and repair; and

(6) Licensee shall ensure the safety of the Stage and Premises and of the persons who attend the Events on the Premises.

c. **Annual Report.** Licensee shall provide an Annual Report to City staff no later than November 30th of each year during the Term describing how Licensee has complied with the performance objectives set forth in this paragraph. City staff will review the Annual Report and determine whether Licensee has fulfilled the performance objectives.

14. **Copyright Protection.** Licensee represents and warrants on behalf of itself, the event promoter and/or musical group/performer that all copyrighted music will be performed or produced with the written permission of the copyright owner. Licensee further represents and warrants that any and all obligations under the copyright license shall be performed or completed by Licensee and/or the designated representatives, the event promoter, and the musical group/performer. Without limiting the generality of the foregoing, Licensee shall pay all applicable BMI, ASCAP, and SESAC license fees that may be owed for any concert or event produced by Licensee under this Agreement. In addition to the indemnity provision contained in Section 8, Licensee agrees to indemnify and hold harmless City, the District and their respective officers, employees and agents from any and all liability, claims, costs, actions, expenses including reasonable attorneys' fees and court costs that may arise out of or in any way connected to or incurred directly or indirectly from infringement of a copyright license agreement or copyright infringement lawsuit or any breach of the representations, warranties, or agreements contained in this Section 14.

15. **Surrender of Premises.** Upon the expiration of the Term or the earlier termination of this Agreement, Licensee shall remove the Stage, the fencing and any other equipment from the Premises and restore the Premises to its condition prior to the Commencement Date. Licensee shall timely repair any damages to the Premises or the Oxbow Commons, including but not limited to the turf, park amenities, grounds, walkways, caused by, or resulting from, Licensee's activities on the Premises. If Licensee fails to timely repair any damages in accordance with this Section 15, Licensee will be charged for the cost of such repairs, including any associated staff costs.

16. **General Provisions**.

a. **Headings**. The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

b. **Severability**. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

c. **Governing Law, Jurisdiction, and Venue**. The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Napa.

d. **Attorney's Fees**. In the event any legal action is commenced to enforce or interpret this Agreement, the prevailing party is entitled to reasonable attorneys' fees, costs, and expenses incurred, whether or not such action or proceeding is prosecuted to judgment.

e. **Modifications**. This Agreement may not be amended or modified orally. No amendment or modification of this Agreement is binding unless it is in a writing signed by both parties.

f. **Waivers**. No waiver of a breach, default, or duty under this Agreement will be effective unless it is in writing and signed by the party waiving the breach, default, or duty. Waiver of a breach, default, or duty under this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach, default, or duty under this Agreement.

g. **Time**. Time is of the essence in carrying out the duties hereunder. Each Party shall, upon request by the other party, execute, acknowledge, and deliver such documents or take such action as may be necessary or convenient to carry out the terms and conditions of this Agreement.

h. **Entire Agreement**. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the subject matter herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all. If any provision in any document attached or incorporated into this Agreement conflicts or is inconsistent with a provision in the body of this Agreement, the provisions in the body of this Agreement will control over any such conflicting or inconsistent provisions.

i. **Each Party's Role In Drafting The Agreement**. Each party to this Agreement has had an opportunity to review the Agreement, and to consult with its respective legal counsel regarding the meaning of the Agreement. Accordingly, Civil Code Section 1654 will not apply to interpret any uncertainty in the meaning of the Agreement.

j. **Signatures**. The individual executing this Agreement represent they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Licensee and City.

h. **Counterparts**. This Agreement may be executed in counterparts, each one of which is deemed an original, but all of which together constitute a single instrument.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective on the Effective Date set forth below.

LICENSEE:

For: **Mad Dog Presents, LLC, a New Jersey limited liability company**

By: _____ managing member

CITY:

CITY OF NAPA, a California charter city

By: _____
Steve Potter, Interim City Manager

APPROVED AS TO FORM:

By: _____ Sabrina S. Wolfson, Deputy City Attorney
for Michael Barrett, City Attorney

COUNTERSIGNED:

By: _____
Desiree Brun, Auditor

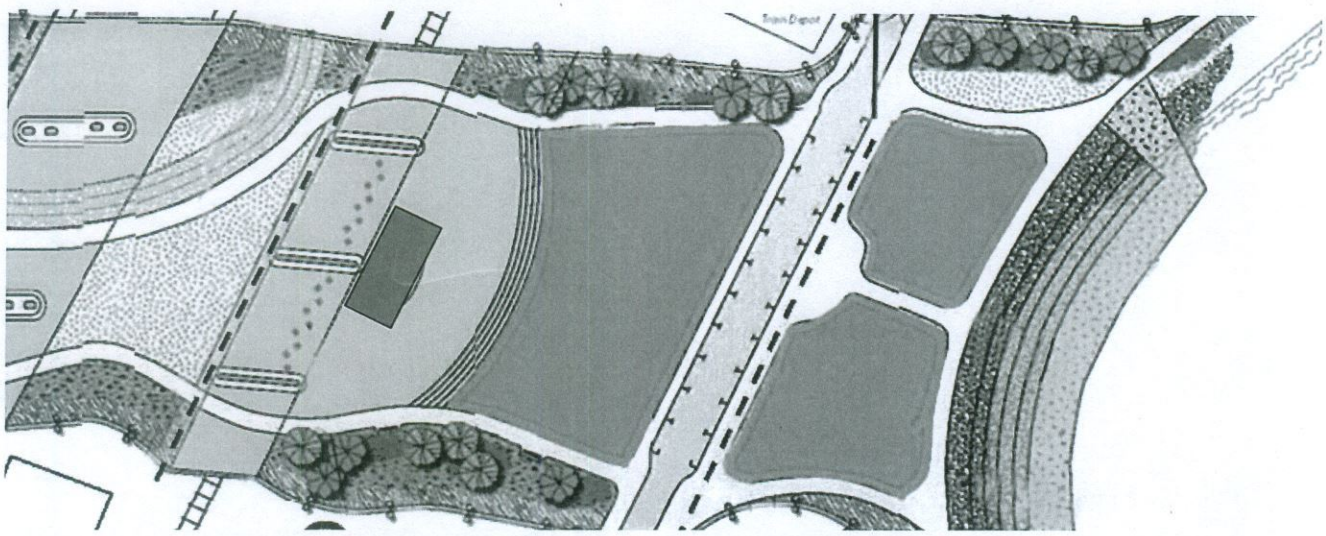
ATTEST:

By: _____
FOR Dorothy Roberts, City Clerk — Tiffany Carranza Deputy City Clerk

Date: 10/19/18
("**Effective Date**")

Exhibit "A"
Premises

The Premises is the area depicted in red below:



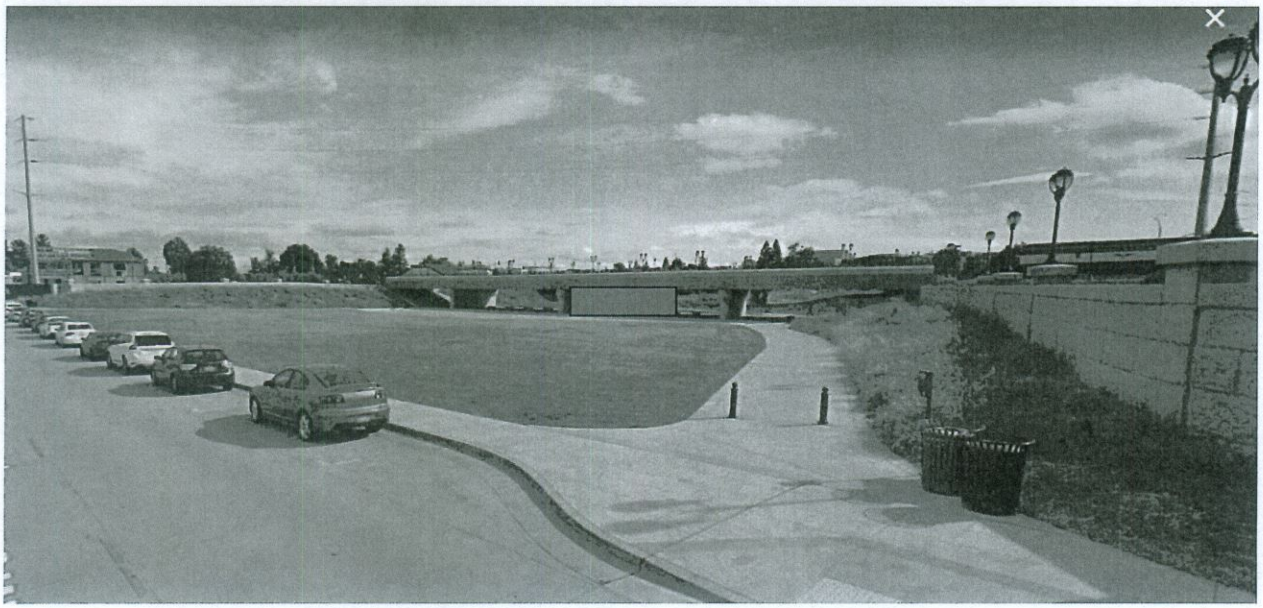


Exhibit "B"
Blackout Days

4th of July – Napa Lights the Valley: July 4
Westin Company Picnic: July 9 (2nd Tuesday in July)
Napa to Sonoma Half Marathon Expo: July 13 (2nd Saturday in July)
Walk for Animals: August 4 (1st Sunday in August)
MAVA Harvest Festival: August 17 (3rd Saturday in August)
Light the Night: September 14 or 21 (2nd or 3rd Saturday in September)
OxBOO festival: October 26 (Saturday before Halloween)