

Exhibit A

**ADDENDUM TO OPERATING AGREEMENT WITH THE CITY OF HOLLISTER RELATING  
TO THE SOFTBALL FIELDS AT VETERANS MEMORIAL PARK**

This addendum is hereby made part of the 1999 "Operating Agreement" between the County of San Benito ("County") and the City of Hollister ("City"), which is attached hereto as Exhibit "A" and incorporated herein by this reference.

The parties agree to the following terms and conditions which shall be now incorporated by reference into the agreement:

1. Paragraph 14 of the Operating Agreement shall be amended to read as follows:

14. PROHIBITION AGAINST ASSIGNMENT AND SUBLETTING: CITY shall not assign CITY'S interest under this lease, or sublet any portion of the premises except as stated below:


The CITY may sublet or assign its interest in the Small Softball Field if the sublease or assignment agreement is reviewed and approved by (a) the Veterans Memorial Park Commission, (b) the Chair of the Board of Supervisors (who may in his/her discretion agendize the matter for full Board approval), and (c) as to legal form by County Counsel.

Any sublease or license shall terminate upon the termination of the Operating Agreement between the County of San Benito and the City of Hollister, upon 30 days prior written notice to Sublease or Licensee of such termination.

Any sublease or license agreement shall not relieve the County and City's mutual obligations to one another under the Operating Agreement.


2. All other terms and conditions of the agreement remain unchanged.

**County of San Benito**

By:   
Robert Rivas, Chair  
San Benito County Board of Supervisors


Date: 1/26/16

**APPROVED:**

By:   
Matthew W. Granger, County Counsel


Date: 3-22-2016

**CITY OF HOLLISTER**

By:   
Ignacio Velazquez  
Mayor, City of Hollister

Date: 2-1-2016

**APPROVED:**

By:   
City Attorney

Date: 2-1-2016

**RESOLUTION 2016-06**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOLLISTER  
AUTHORIZING THE MAYOR TO EXECUTE AN ADDENDUM TO THE 1999  
OPERATING AGREEMENT FOR FIELD AT VETERANS MEMORIAL PARK**

**WHEREAS**, the City of Hollister and the County of San Benito have entered into an Operating Agreement; and

**WHEREAS**, there is a desire by both parties to amend a portion of the agreement affecting the small softball field; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Hollister hereby authorizes the Mayor to execute an addendum attached as Exhibit A to the 1999 Operating Agreement.

**PASSED AND ADOPTED**, by the City Council of the City of Hollister at a regular meeting held this 1st day of February, 2016, by the following vote:

**AYES:** Council Members Klauer, Gomez, Friend, Luna, and Mayor Velazquez.

**NOES:** None.

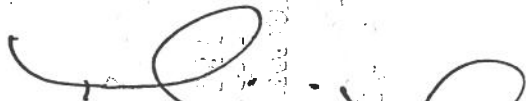
**ABSTAINED:** None.

**ABSENT:** None.



\_\_\_\_\_  
Ignacio Velazquez, Mayor

**ATTEST:**



\_\_\_\_\_  
Thomas A. Graves, CMC, City Clerk

**APPROVED AS TO FORM:**

L+G LLP, Attorneys at Law



\_\_\_\_\_  
City Attorney

**DUPLICATE OF ORIGINAL  
ON FILE IN THE  
OFFICE OF THE CITY CLERK  
CITY OF HOLLISTER**

# AGENDA ITEM TRANSMITTAL

TO: BOARD OF SUPERVISORS

FROM: PUBLIC WORKS

AGENDA TIME ESTIMATES

CONSENT

LEAVE BLANK

127

DATE/TIME RECEIVED

6/16/99 SN

CONTACT FOR INFORMATION

Name: DAN HOLSAPPLE

Phone No: 636-4170

NUMBER OF CERTIFIED

COPIES REQUIRED:

MEETING DATE

6/12/99

(1) SUBJECT

ADOPT ~~RESOLUTION ACCEPTING~~ AGREEMENT WITH THE CITY OF HOLLISTER REGARDING USE OF BALL FIELDS AT VETS PARK

(2) BACKGROUND INFORMATION:

10 year agreement granting the City of Hollister the right to use the softball fields for City Recreation Programs. City will provide sanitary sewer and water to park at no charge for use of the fields.

(3) SUPPORTIVE DOCUMENTS RELATIVE TO THIS ITEM

~~Proposed Resolution~~ Agreement

(4) PREVIOUS RELEVANT BOARD ACTIONS ON THIS SPECIFIC ITEM

(5) FUNDING SOURCE(S)

(6) CURRENT YEAR COST

(7) ANNUAL COST

(8) BUDGETED ☐ YES ☐ NO

(9) WILL PROPOSAL REQUIRE ADDITIONAL PERSONNEL? ☐ YES ☐ NO IF YES, STATE NUMBER PERMANENT LIMITED TERM

(10) RECOMMENDED ACTION

Adopt resolution accepting agreement and authorize Chairman to sign.

Dan E. Holsapple  
SIGNATURE OF AGENCY OR DEPARTMENT AUTHORIZED REPRESENTATIVE

6/15/99

DATE

(11) ADMINISTRATIVE REVIEW

Note #4, in the context of Rancho Larios Recreational Facilities concerns

(CLERK'S USE ONLY)

☒ APPROVED

☐ ACKNOWLEDGED

☐ SET PUBLIC HEARING

☐ DENIED

☐ ACCEPTED

☐ APPOINTED

☐ ADOPTED

☐ RESOLUTION NO. \_\_\_\_\_

☐ ORDINANCE NO. \_\_\_\_\_

☐ DIRECTION TO: \_\_\_\_\_

☐ CONTINUED TO: \_\_\_\_\_

☐ OTHER: \_\_\_\_\_

BY:

Linda Churchill  
(DEPUTY CLERK OF THE BOARD)

DATE:

6/22/99

WHITE (BOARD)

GREEN (AUDITOR)

GOLD (ORIGINATING DEPT)

YELLOW (HOLDING COPY)

## OPERATING AGREEMENT

The COUNTY OF SAN BENITO ("COUNTY"), and the CITY OF HOLLISTER ("CITY") enter into this Operating Agreement, effective on the date specified in paragraph 1.

### TERMS

1. **DURATION:** This Operating Agreement shall commence on July 1, 1999 and terminate on July 1, 2009. Unless either party gives written notice to the other party thirty (30) days in advance of the expiration of the term, this Operating Agreement shall automatically renew for successive one (1) year terms under the contract terms specified in this agreement.
2. **DESCRIPTION OF PREMISES:** The premises subject to this Operating Agreement are a portion of the east side of Veterans Memorial Park. The premises are further described by the attached diagram which shall be called Attachment "A" and which is made a part of this Operating Agreement. As depicted on Attachment "A", other portions of Veterans Memorial Park are to be within the primary operating control of the community youth organizations, San Benito County Little League and Babe Ruth League. These portions of Veterans Memorial Park are covered by separate agreements and are not subject to this agreement.
3. **CONTROL OF PREMISES:** CITY shall have exclusive control of the premises designated in Attachment "A". "Control" shall mean that CITY will maintain and operate the premises as a public park and playground and that CITY shall have exclusive right to use the designated baseball/softball facilities for CITY Recreation Department programs during CITY's normal Recreation Department season and tournaments associated with the CITY Recreation Department programs. CITY shall provide for use of facilities by community groups or individual members of the public to the extent such use does not conflict with the exclusive right to use the facilities as specified in this paragraph. CITY shall ensure that any use of the premises is consistent with COUNTY Ordinance No. 167 ½.
4. **FEES:** CITY shall not charge any fee for use of the facilities by individuals or groups, except for charges incidental to the program offered through CITY's Recreation Department. CITY shall not charge residents of unincorporated areas of COUNTY more than CITY residents for participation in any CITY Recreation Department program at the premises. CITY shall obtain Veterans Memorial Park Commission (Commission) approval to charge fees for special events.
5. **OTHER ACTIVITIES:** Except as authorized by paragraph 3, City shall not allow any organized activities at the premises except those authorized by

COUNTY through a review by the Commission. Other organized events open to all COUNTY and CITY residents shall/may be approved by the Commission. If the Commission approves a CITY sponsored event, CITY shall pay to COUNTY 20% of all revenues received by CITY for such events.

6. **MAINTENANCE/OPERATION:** The maintenance of premises includes, without limitation, maintenance of all fields, back stops, dug outs, viewing stands, and other structures identified in Attachment "A". CITY shall maintain the premises in a reasonable condition and as further described herein. CITY shall operate premises in a reasonable manner.
7. **ENFORCEMENT OF REGULATION:** CITY shall enforce all CITY laws and regulations applicable to the premises, including those rules relating to dogs running at large and alcohol consumption.
8. **RESTROOMS:** CITY shall open all restrooms within the premises during the facilities use for CITY programs and events as authorized by CITY and CITY shall lock and secure the restrooms following such events. CITY shall immediately repair any damage to the restrooms caused as a result of CITY's failure to adequately lock and secure the restrooms.
9. **RECIPROCAL INDEMNIFICATION:** Each party ("the indemnifying party") agrees to indemnify, defend and save harmless the other party and the other party's officers, agents and employees, from and against any and all claims and losses whatsoever arising out of or in any way related to the indemnifying party's performance under this Operating Agreement, including but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys fees, court costs, investigation costs and experts fees) incurred by the indemnitee in connection with such claims. The indemnifying party's "performance" includes the indemnifying party's action or inaction, and the action or inaction of the indemnifying party's officers, employees, agents or subcontractors.
10. **CONDITION OF PREMISES:** CITY has inspected the premises, its furnishings and equipment, and have found them to be satisfactory. All plumbing, heating and electrical systems, if applicable, are operative and are deemed satisfactory.
11. **WATER:** CITY shall supply irrigation and domestic water to Veterans Memorial Park from its municipal water system at no cost to COUNTY.
12. **CITY BOOSTER PUMP:** CITY and COUNTY acknowledge that pursuant to a previous agreement between the parties, COUNTY has granted CITY the right to construct, install, maintain, operate and remove a booster pump with underground pipelines to and from the same location in the most northwesterly corner of Veterans Memorial Park. CITY and COUNTY agree

that CITY may continue to maintain and operate the booster pump and pressure tank together with underground pipelines to and from the same location in Veterans Memorial Park.

13. **CITY SERVICES:** CITY shall continue to provide storm drain and sanitary sewer service for the restrooms situated in Veterans Memorial Park through its municipal sanitary sewer system.
14. **PROHIBITION AGAINST ASSIGNMENT AND SUBLETTING:** CITY shall not assign CITY'S interest under this lease, or sublet any portion of the premises.
15. **UTILITIES AND SERVICES:** CITY is responsible for payment of all utilities and service charges related to operating the premises.
16. **MISCELLANEOUS OBLIGATIONS:** CITY agrees to perform the following obligations:
  - (a) To keep the premises as clean and sanitary as their condition permits;
  - (b) To dispose of all solid waste deposited on the premises in a clean and sanitary manner;
  - (c) To use and operate properly all appliances and facilities, gas, and plumbing fixtures and pipes, and to keep them as clean and sanitary as their condition permits;
  - (d) To refrain from willfully or wantonly destroying, defacing, damaging, impairing, or removing any part of the premises or the facilities, equipment, or appurtenances, or permitting any person to do so who is on the premises with CITY's consent in connection with CITY sponsored events.
17. **CITY'S CONDUCT:** CITY shall not disturb, annoy, endanger, or interfere with occupants of neighboring buildings or residences. CITY shall not use the premises for any unlawful purpose, violate any law or ordinance, or commit waste or nuisance on the premises. CITY is responsible for all costs associated with any improper conduct or violations of any law or ordinance caused by CITY.
18. **USE OF PREMISES:** The premises are rented to CITY for the following purpose(s) only:

Public park and playground, including the exclusive right of use of ball fields to conduct organized sports for youth and incidentally for adults through CITY's

Recreation Department programs or through CITY sponsored programs as approved by COUNTY on a case by case basis pursuant to paragraph 5.

19. **CITY'S OBLIGATION TO MAINTAIN PREMISES:** CITY at it's cost shall maintain the premises in good condition. COUNTY shall not have any responsibility to maintain the premises. CITY waives the provisions of Civil Code §§1941 and 1942 with respect to COUNTY's obligations for tenantability of the premises and CITY's right to make repairs and deduct the expenses of such repairs from rent, should this agreement be construed as a lease.
20. **COUNTY'S RIGHT OF ENTRY:** COUNTY and its authorized representatives shall have the right to enter the premises at all reasonable times to determine whether the premises are in good condition and whether CITY is complying with its obligations under this Operating Agreement.
21. **ALTERATION:** CITY shall not make any alterations to the premises without COUNTY's prior written consent, except as specified under paragraph seven. CITY shall make any request for alterations, not covered by paragraph seven to the Commission, which shall consider and decide any request.
22. **PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE:** CITY at its cost shall maintain public liability and property damage insurance with a combined limit of \$1,000,000.00 and property damage limits of not less than \$200,000.00 insuring against all liability of CITY and COUNTY and their authorized representatives arising out of and in connection with CITY's use or occupancy of the premises. In lieu of providing insurance, CITY may self-insure, provided that CITY's self-insurance provides substantially the same protection to COUNTY as the insurance required herein.
23. **CERTIFICATE OF INSURANCE:** Upon the execution of this agreement, CITY shall provide to COUNTY proof of self-insurance as required by this agreement. CITY further agrees to notify COUNTY in the event change in self-insurance occurs which change alters the obligations undertaken by CITY in this contract. Such notification shall occur within thirty (30) days of any change in self-insurance, which is an alteration of the obligations required by this contract.
24. **BREACH OF COVENANT:** The parties consider each and every term, covenant, and provision of this Operating Agreement to be material and reasonable.
25. **ATTORNEY'S FEES:** In any legal action brought by either party to enforce the terms of this Operating Agreement, the prevailing party is entitled to all costs incurred in connection with such an action, including reasonable attorney's fees.

26. **WAIVER:** Waiver by either party of a breach of any covenant of this Operating Agreement will not be construed to be a continuing waiver of any subsequent breach. COUNTY's receipt of consideration with knowledge of CITY's violation of a covenant does not waive its right to enforce any covenant of this Operating Agreement. No waiver by either party of a provision of this lease will be considered to have been made unless expressed in writing and signed by all parties.
27. **POSSESSORY INTEREST TAX:** This Operating Agreement may create a possessory interest subject to property taxation. If such an interest is created, the party in whom the possessory interest is vested may be subject to the payment of the property taxes levied on such interest.
28. **TIME OF THE ESSENCE:** Time is of the essence of each Provision of this Operating Agreement.
29. **ENTIRE AGREEMENT:** This Operating Agreement contains all of the agreements of the parties.
30. **NEGOTIATED AGREEMENT:** This agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this agreement within the meaning of Civil Code §1654.
31. **SEVERABILITY:** Should any provision herein be found or deemed to be invalid, this agreement shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this agreement are declared to be severable.
32. **ENTIRE AGREEMENT:** This agreement is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this agreement or in any document attached hereto or incorporated herein by reference.
33. **NOTICE:** Notices to the parties in connection with the agreement shall be given personally or by regular mail addressed as follows:

**COUNTY OF SAN BENITO**

Max Bridges, Public Works Director  
3220 Southside Road  
Hollister, CA 95023

**CITY OF HOLLISTER**

City Manager  
375 Fifth Street  
Hollister, CA 95023

Notices will be deemed received on the date they are personally delivered to the office of the persons indicated above, with a written notation that the notice is to be given to the person indicated above, or five days after the date they are



deposited in the U.S. mail, addressed as indicated above, with first-class postage fully prepaid.

**COUNTY OF SAN BENITO**

By:   
Chair 6/22/99  
San Benito County Board of Supervisors

**CITY OF HOLLISTER**

By:   
Mayor  
Hollister City Council

Approved as to legal form:

  
Steven R. Sanders, County Counsel

Approved as to legal form:

  
Elaine M. Cass, City Attorney

Attachment "A"

03-02-1995 11120

408 638 8746

SAN BENITO COUNTY PUBLIC WORKS

P.11

Concess.

Bleachers

Small Soft Ball  
Field

Map A

Veterans Memorial  
Park

Hollister League Field  
With

Ball Field Lighting Syst

