

**AMENDMENT NO. 1 TO
NAPA COUNTY AGREEMENT NO. 8671B**

**EXCLUSIVE NEGOTIATION AGREEMENT
LAKE BERRYESSA CONCESSIONS**

THIS AMENDMENT NO. 1 (“Amendment”) TO AGREEMENT NO. 8671B (“Agreement”) is made and entered into as of this 26th day of MAY, 2025 by and between Napa County, a political subdivision of the State of California (“County”), and WhiTim Napa, LLC, a California limited liability company (“Concessionaire”).

RECITALS

WHEREAS, the United States Bureau of Reclamation (“BOR”) and County entered into Managing Agreement Number 20-LC-20-2623 (Napa County Agreement No. 200285B), dated March 9, 2020, for the administration, operation, maintenance and development of public recreation facilities, protection of natural and cultural resources, and provision of public health and safety at Lake Berryessa.

WHEREAS, County and Concessionaire entered into Agreement No. 8671B on November 7, 2023, for Concessionaire to conduct a site investigation, environmental analysis, and due diligence of the Steele Canyon Resort Area at Lake Berryessa (“Property”) for potential development and operation of resort concessions; and

WHEREAS, during its investigation of the Property, Concessionaire discovered that the legal description of the Property in the Managing Agreement with BOR is larger than how the Property is depicted in the accompanying illustration in the Managing Agreement; and

WHEREAS, BOR confirmed by letter dated October 22, 2024, that the larger description of the Property is what was intended to be included in the Managing Agreement; and

WHEREAS, Concessionaire needed an additional 5 months to confirm with BOR which description of the Property was correct, and to investigate and adjust its approach to potentially develop concessions on the larger site; and the parties agree that the delay caused by the unexpected change in the boundary of the Property warrants an equivalent extension in time for Concessionaire to conduct its studies;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is acknowledged, the parties amend the Agreement as follows:

1. Section 1.3 of the Agreement is amended to read in full as follows:

1.3 Period of Negotiations. The Parties agree to negotiate a DDA for the Property for a twenty-nine (29) month period (“**Negotiation Period**”), commencing on the Effective Date. If the Parties have not reached agreement on a DDA by the end of 29 months, then this Agreement shall automatically terminate. Concessionaire shall have no further rights

regarding the Property, and the County shall be free to negotiate with any other persons or entities with regard to such Property. The Negotiation Period (consisting of the Investigation and Approval Periods described below) may be extended by Concessionaire for up to six (6) months by delivering written notice thereof to the County, but any further extensions will require the mutual written agreement of the Parties. The Negotiation Period shall consist of two periods: an Investigation Period and an Approval Period.

1.3.1 The “**Investigation Period**” shall be eleven (11) months starting on the Effective Date. The County shall use reasonable efforts to assist Concessionaire in obtaining copies of all written reports, studies, investigations, information or material in the BOR's possession or control and not previously delivered to Concessionaire relating to the condition or development of the Property (“**Documents**”). By way of example, without limitation, the term “Documents” shall refer to surveys, topographic maps, engineering plans and specifications, soil boring tests, soils analysis, environmental reports, water table analysis, pending litigation and/or claims, and related correspondence. During the term of this Agreement, Concessionaire shall have full access to inspect the Property, perform all testing, and inspect all records relating to the Property, without unreasonably interfering with ongoing concessions activity or BOR operations. During the Investigation Period, the Concessionaire has the right to terminate this Agreement for any reason or no reason whatsoever. If Concessionaire terminates this Agreement, Concessionaire will repair any damage to the Property caused by such investigations in a timely manner and in a good workmanship manner.

1.3.2 The “**Approval Period**” shall be eighteen (18) months commencing from the end of the Investigation Period, to complete the environmental analysis documents in accordance with the California Environmental Quality Act (“**CEQA**”) and the National Environmental Policy Act (“**NEPA**”) and secure all necessary permits, licenses, governmental approvals, including rezoning, if necessary, approval to extend utilities to the boundary of the Property, and all other governmental approvals, permits and licenses required for Concessionaire to commence and complete the development of the Property (“**Governmental Approval**”). Concessionaire will use commercially reasonable efforts to obtain the Governmental Approvals. However, during the Approval Period, Concessionaire has the right to terminate this Agreement for any reason or no reason whatsoever.

2. Section 2.2 of the Agreement is amended to read in full as follows:

2.2 Concessionaire's Interim Submittals. Concessionaire shall submit to the County the following described work items to be used in connection with the negotiations no later than twenty-three (23) months after the Effective Date:

2.2.1 Concessionaire will complete an architectural program with an architect, including site plans, floor plans, elevation studies, and building sections for the Property

and will submit notice to the County that the Concessionaire has determined that the Property is suitable or unsuitable for the proposed development.

2.2.2 Concessionaire will submit schematic package including refinement of the above tasks together with parking, presentation drawings and cost analysis and project pro forma, and complete draft permit applications.

2.2.3 Concessionaire will provide complete project information for the above tasks and as may be required for applications necessary for planning, zoning, and other entitlement and permit approvals for the proposed development as contemplated by the DDA, to the reasonable satisfaction of the County.

3. This Amendment No. 1 represents all the changes to the Agreement agreed to by the parties. No enforceable oral representations or other agreements have been made by the parties except as specifically stated herein. All other provisions of the Agreement p not addressed in this Amendment No. 1 shall remain in full force and effect.

4. This Amendment No. 1 may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

[remainder of page intentionally blank]

IN WITNESS WHEREOF, this Amendment No. 1 is executed by the County, acting by and through the Chair of the Board of Supervisors, and by Concessionaire through its duly authorized officer.

WHITIM NAPA, LLC

By: 
TIM WILKENS, Manager

NAPA COUNTY, a political subdivision of
the State of California

By: _____
ANNE COTTRELL, Chair
Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Thomas C. Zeleny</u> Chief Deputy County Counsel</p> <p>Date: <u>May 14, 2025</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>_____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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