39978 JUN 25 1956

LEASE AND OPTION TO PURCHASE

THIS AGREEMENT, made this 1 day of June, 1956, by and between LAURENCE CURTOLA and FREDERICKA CURTOLA of Diablo, California, hereinafter called "Party of the First Part," and DIABLO COUNTRY CLUB, a California corporation, hereinafter called "Party of the Second Part,"

W I T N E S S E T H

That for and in consideration of the covenants and agreements on the part of the Party of the Second Part herein contained, Party of the First Part agrees to lease to Party of the Second Part and Party of the Second Part agrees to lease from Party of the First Part, from the 1st day of December, 1955, and for a period of twenty (20) years from said date, all of the existing facilities now in use and known as the Concord Irrigation Installation, more fully described as a completed irrigation project which was commenced in 1950 and completed in 1951, commencing from the canal source, being a line commencing at the Oakmore Road Pumping Station and extending through and terminating at Diablo Lake, Diablo, California. Said lease includes all equipment, rights of way and real property embraced in the aforesaid Concord Irrigation Installation, including Diablo Lake and Pine Canyon Dam.

This lease, containing an option of purchase of equipment, rights of way and real property described in the paragraph above, shall be on the following terms and conditions:

1. Party of the Second Part shall pay Party of the First Part FOUR HUNDRED TWENTY-FIVE DOLLARS ($425.00) per month commencing on the 1st day of December, 1955.

2. If any rental payment be not paid within twenty (20) days after the same becomes due, or if any other covenant or

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Fee $3.50 Contra Costa County Records
Ralph Cunningham, County Recorder.

condition thereof is not performed, Party of the Second Part agrees that its rights under this agreement shall be terminated in accordance with the provisions of Paragraph 9 herein set forth.

3. Party of the Second Part acknowledges that it has personally examined all of the property, equipment and installations hereinbefore mentioned and acknowledges that Party of the First Part makes no warranty, expressed or implied, as to the condition of said property, and that Party of the Second Part acknowledges the same and enters into this lease agreement at present condition, order and repair without warranty or representation of any kind or description on the part of Party of the First Part, and Party of the Second Part agrees at all times during the life of this agreement to keep and maintain, at its own cost and expense, said property in good order, condition and repair.

4. Party of the Second Part shall not make any alterations or improvements without first obtaining the consent of Party of the First Part.

5. Party of the Second Part shall, as soon as due, pay all laborers', materialmen's and mechanics' liens and all other charges, assessments or liens which may become attached to, due or payable, upon said premises or any part thereof, from the date of the execution of this agreement, and should it fail to pay the same or said taxes or insurance premiums, or any other charges against said premises or any part thereof prior to maturity, or to insure said buildings and the improvements, or maintain and care for said premises as herein provided, Party of the First Part, without notice to Party of the Second Part, may pay and discharge the same, and all payments made therefor shall become forthwith due and payable by Party of the Second Part to Party of the First Part on demand.

6. Party of the First Part agrees to hold Party of the Second Part free and harmless of any litigation expense should any claim or litigation arise in connection with the right of possession, use or title of any of the equipment, rights of way and real property described in this contract.

7. Party of the First Part shall have the right at all times to enter said premises and all parts thereof for the purpose only of inspecting the same and ascertaining if the agreements and covenants of Party of the Second Part are being properly and seasonably done and performed, and inspecting all books and records of the water company operation, and for the purpose of posting thereon, should the same become necessary, in the opinion of Party of the First Part, notices of non-responsibility for laborers', materialmen's or mechanics' liens. Party of the First Part shall have the right to approve the maintenance personnel.

8. The performance of all covenants and agreements on the part of Party of the Second Part is a condition precedent whereon depends the performance of the agreements on the part of the Party of the First Part. In the event of the failure by the Party of the Second Part to comply with the covenants and agreements or any part thereof, or therein contained in that certain agreement dated Jan. 1 1976 between Party of the First Part and Party of the Second Part in regard to the sale of Diablo Country Club, on its part to be done and performed, Party of the First Part, at his option, shall be released from all obligations in law or equity to convey said real or personal property or any portion thereof, and Party of the Second Part, in the event Party of the First Part shall exercise said option, shall forfeit all rights under this lease agreement and/or in that certain agreement dated Jan. 1, 1976 between Party of the First Part and Party of the Second Part in regard to the sale of Diablo Country Club, and all moneys theretofore

paid by Party of the Second Part shall belong to Party of the First Part free and clear of any claim thereto by Party of the Second Part as compensation for the use and occupation by Party of the Second Part of said lands and premises, it being understood and agreed that in such event the actual damages of Party of the First Part would be exceedingly difficult of ascertainment. Party of the Second Part hereby waives any notice, oral or written, on failure to comply with any covenant or agreement, or any part thereof, on its part to be done and performed, and this paragraph shall be operative automatically upon the failure of Party of the Second Part to comply with any covenant or agreement herein contained and/or contained in that aforesaid agreement dated June 1 1956 between Party of the First Part and Party of the Second Part in regard to the sale of Diablo Country Club.

It is the intent of the parties that this agreement and the aforesaid agreement of June 1 1956 relating to the sale of Diablo Country Club shall be taken together so far as this forfeiture clause is concerned, and in the event of a breach by Party of the Second Part of either agreement, then the forfeiture clauses contained in each of the agreements shall become immediately operative at the option of Party of the First Part.

9. If suit be brought for the recovery of any money payable hereunder or for the breach of any terms or conditions of this contract or for the recovery of the possession of said premises in event of any default on the part of Party of the Second Part, then Party of the Second Part agrees and promises to pay to Party of the First Part all costs and expenses incurred in said action, including a reasonable attorney's fee to be fixed by court, to be added to any judgment or judgments Party of the First Part shall recover in such action or proceedings. In the

event the terms of this agreement are not met by Party of the Second Part, then Party of the First Part, upon thirty (30) days written notice to Party of the Second Part, may recover possession of said property, at option of Party of the First Part, and move in, and Party of the Second Part shall remove all personal belongings and quit and surrender possession of said property.

10. Party of the Second Part, as a material part of the consideration for this lease agreement, but for which the same would not have been made by Party of the First Part, hereby waives all claims against Party of the First Part for damage to goods, wares and merchandise in, upon or about said premises, and for death or injury or injuries to any persons, including but not limited to employees of Party of the Second Part, in or about said premises, for any cause, arising at any time; and Party of the Second Part agrees to hold Party of the First Part exempt and harmless and free from liability for and on account of any damage, death or injury to any persons, including but not limited to its employees, or for damages or injury to goods, wares and merchandise of any persons arising from any cause, from the use of said premises by Party of the Second Part. Party of the Second Part is to carry public liability insurance of $100,000.00 for one person and $200,000.00 for two or more persons, with "hold-harmless" clause protecting Party of the First Part. Employee compensation insurance is also to be carried by Party of the Second Part.

11. Party of the Second Part agrees not to violate in its use or occupation of the premises, or any part thereof, any municipal, county, state or federal ordinances, laws, statutes, rules or regulations, now in force or which may be hereafter in force, and agrees to faithfully, at its own cost and expense, observe

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and comply with all municipal, county, state and federal ordinances, laws, statutes, rules and regulations regulating and controlling the use of said premises, now in force or which may during the life of this agreement be enacted, adopted or promulgated.

12. The waiver by Party of the First Part of any breach of any covenant or agreement herein contained on the part of Party of the Second Part shall not be deemed or held to be a waiver of any sub sequent or other breach of said covenant or agreement, nor the waiver of any breach of any other covenant or agreement.

13. This contract shall not be assigned by Party of the Second Part, in whole or in part, without the written consent of Party of the First Part.

14. Party of the Second Part agrees to keep the buildings, equipment and other improvements on said premises, and each and every part thereof, insured against loss by fire at its own cost and expense, in companies acceptable to Party of the First Part up to the value of $12,500.00, or an amount agreeable to both parties; loss, if any, to be payable to Party of the First Part, and said policy or policies to have attached thereto standard 100 per cent average clause, standard extended coverage, and a waiver of fallen building clause endorsements. And Party of the Second Part agrees to strictly perform all of the terms and conditions of the policies on the part of the insured to be performed. Said policy or policies shall be delivered to and held by Party of the First Part. Said insurance may be issued and carried under blanket policies on said buildings and improvements, and the furniture, furnishings and fixtures thereof.

15. This agreement, and all the terms, covenants and conditions thereof, subject to the provisions hereof against assignment by Party of the Second Part, shall apply to and bind

the heirs, executors, administrators, successors and assigns of the respective parties hereto.

16. Party of the Second Part agrees that during the terms of this lease agreement all of the properties described herein and all of the existing property at any time during the continuation of this lease agreement shall not be mortgaged or hypothecated, or shall not be removed from the premises without written consent of Party of the First Part.

17. For and in consideration of the mutual promises and undertakings of the parties hereto, as hereinabove provided, Party of the Second Part shall have the right to purchase said property at any time during the term of this lease for the sum of TWO HUNDRED FORTY-SIX THOUSAND, FIVE HUNDRED DOLLARS ($246,500.00), lawful money of the United States.

18. In the event the option of purchase is exercised by Party of the Second Part, Party of the First Part agrees that all payments by Party of the Second Part made in accordance with Paragraph 1 of this agreement shall be deducted from said purchase price.

19. In the event the option of purchase is exercised by Party of the Second Part before the expiration of the twenty-year period of said lease, Party of the First Part agrees to deduct from the purchase price the amount of interest at three per cent (3%) upon ONE HUNDRED SEVENTY THOUSAND DOLLARS ($170,000.00) which would have accrued between the date of the option conversion by Party of the Second Part and the expiration of the said twenty-year period.

20. In the event of the exercise of the said option of purchase by Party of the Second Part, should Party of the First Part be unable to transfer the equipment, rights of way and real property referred to in this agreement with free and

clear title, fifty per cent (50%) of all said monthly payments of $425.00 paid from the commencement of said lease up until the date of the conversion of the option of purchase shall be refunded to Party of the Second Part, and said refund shall be applied upon the balance due upon the contract of Jan. 1 1956, 1956, between Laurence Curtola and Fredericka Curtola and the Diablo Country Club relating to the sale of said Diablo Country Club, should said contract have not been already discharged at that time.

IN WITNESS WHEREOF, the parties hereto have executed this Lease and Option of Purchase the day and year first above written.

Laurence Curtola
Laurence Curtola

Fredericka Curtola
Fredericka Curtola

Party of the First Part

DIABLO COUNTRY CLUB

By Jack K. Feazey
President

By R. P. Lee Cox
Secretary

Party of the Second Part

Subscribed and sworn to before me this 1st day of January, 1956.
Madge M. Luz Notary Public
In and for the County of Alameda, State of California
MADGE M. LUZ Notary Public
In and for the County of Alameda, State of California
My Commission Expires Nov. 16, 1956

STATE OF CALIFORNIA,
County of Alameda } ss.

ON THIS 1st day of January, A.D., 19 56, before me,
Madge M. Luz
a Notary Public in and for said County and State, personally appeared
Laurence Curtola and Fredericka Curtola
, known to me,
to be the person s whose name s are subscribed to the within Instrument, and acknowledged to me that the y executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Madge M. Luz
Notary Public in and for said County and State.

ACKNOWLEDGEMENT — GENERAL — WOLCOTTS FORM 233 My commission expires Nov. 10, 1959

STATE OF CALIFORNIA,
County of Alameda } ss.

ON THIS 1st day of January, A.D., 19 56, before me,
Madge M. Luz
a Notary Public in and for said County and State, personally appeared
Jack Jarvis and P. Seely
, known to me,
to be the Pres. and Secretary of the corporation
described in and who executed the within instrument and
to be the persons whose names are subscribed to the within
Instrument, and acknowledged to me that the y executed the same.
on behalf of the corporation therein named.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Madge M. Luz
Notary Public in and for said County and State.

ACKNOWLEDGEMENT — GENERAL — WOLCOTTS FORM 233 My commission expires Nov. 10, 1959