

THIRD AMENDMENT TO MEMORANDUM OF AGREEMENT

This Third Amendment to Memorandum of Agreement (the "*Third Amendment*") is entered into on this ___ day of September 2013 by and between Lake Delhi Recreation Association, Inc., an Iowa not for profit corporation (the "*LDRA*") and Lake Delhi Combined Recreation Facility and Water Quality District (the "*District*").

RECITALS

- A. The LDRA and the District are parties to that certain Memorandum of Agreement (the "*Memorandum*") dated the 30th day of August 2012 wherein the LDRA agreed to convey to the District and the District agreed to assume title to certain real estate located in and around "Lake Delhi" in Delaware County, Iowa.
- B. The LDRA and the District are parties to that certain First Amendment to Memorandum of Agreement (the "*First Amendment*") signed the 12th and 14th days of January 2013 wherein the LDRA agreed to retain a portion the real estate comprising "Lake Delhi" subject to certain post-closing obligations to convey said retained real estate.
- C. The LDRA and the District are parties to that certain Second Amendment to Memorandum of Agreement (the "*Second Amendment*") signed the 21st day of January 2013 wherein the LDRA agreed to retain additional real estate comprising "Lake Delhi" locally referred to as "Turtle Creek" all subject to an option to purchase granted by the LDRA to the District for Turtle Creek.
- D. The LDRA and the District desire to further amend the Memorandum.
- E. As used in this Third Amendment "Restricted Real Estate" means:
 - a. That portion of the Current LDRA Real Estate described as Parcel L, Part of "Tract No. 4" (Plant Site), Part of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 29, and Part of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 30, all of T88N, R4W of the Fifth P.M., Delaware County, Iowa, according to the Plat recorded in Book 7 Plats, Page 213.
 - b. That portion of the Current LDRA Real Estate described as "Lost Beach".
 - c. That portion of the Current LDRA Real Estate described as "North Beach".
 - d. That portion of the Current LDRA Real Estate described as "Turtle Creek Park"
 - e. The Dredge Containment Site.
- F. As used in this Third Amendment "Taxpayers" shall mean those owners of record of Parcels of real estate situated in the geographic boundaries of the District.
- G. As used in this Third Amendment, "Parcels" shall mean a parcel of land or a building on leased land identified by the Delaware County, Iowa Auditor as a unique parcel for taxing purposes.
- H. All capitalized terms not defined in this Third Amendment shall have the meaning accorded to them in the Memorandum, the First Amendment or the Second Amendment, as the case may be.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

AGREEMENT

1. The first unnumbered paragraph of Paragraph 1 of the Memorandum, as amended, is deleted and the following inserted in lieu thereof:

“1. **Conveyance.** In consideration of One Dollar (\$1.00) and other valuable consideration the LDRA shall convey (the “*Conveyance*”) all of its right, title and interest in the Current LDRA Lake Real Estate and the Equipment and Personal Property to the District, other than the real estate specifically excepted from the conveyance by this agreement. The District shall accept title and ownership of these properties subject to all existing liens, encumbrances, and easements of record, including those specifically recited herein.

A. **LDRA Transfer Restriction.** In the event the District desires to convey any or all of the Current LDRA Real Estate to a party other than a public governmental entity, the following restrictions shall apply:

1. Until expiration of the fifth annual anniversary of the Closing Date, before transferring any or all of the Current LDRA Real Estate, the District must first obtain the prior written approval of the Board of Directors of the LDRA (the “*LDRA Transfer Restriction*”). As a condition precedent to any conveyance, the District shall submit to the LDRA a request for waiver of this LDRA Transfer Restriction and consent to convey any or all of the Current LDRA Real Estate, together with such information describing the nature and purpose of the conveyance proposed. The Board of Directors of the LDRA shall respond to said request within forty-five (45) days of submission of the request for waiver from the District with either the Board’s consent or non-consent of the same.

2. Notwithstanding the foregoing, in the event the District wishes to convey the Southerly 1/3 of Parcel L or any part thereof to a party other than a public governmental entity within the foregoing five-year period, the District must first obtain the prior written approval of the Board of Directors of the LDRA (the “*LDRA Transfer Restriction*”). As a condition precedent to the conveyance, the District shall submit to the LDRA a request for waiver of this LDRA Transfer Restriction and consent to convey any portion or all of the Southerly 1/3 of Parcel L, together with such information describing the nature and purpose of the conveyance proposed. The Board of Directors of the LDRA shall respond to said request within fifteen days (15) of submission of the request for waiver from the District with either the Board’s consent or non-consent of the same.

3. From and after the fifth annual anniversary of the Closing approval of the LDRA Board will no longer be required for the District to convey the Restricted Real Estate. However, the District cannot convey Restricted real estate to a non-governmental entity without a vote of the taxpayers of the District. Approval of the transfer requires that 60% of those voting approve of the transfer. The procedure for conducting the vote and identifying eligible voters will be determined by the District prior to the vote however, a Taxpayer shall be entitled to only one vote, irrespective of the number of Parcels owned by that Taxpayer. It will not be necessary that the procedure consist of a formal election process.

The remaining second unnumbered paragraph, and its subparts, to Paragraph 1 of the Memorandum remain unchanged and in full force and effect.

2. Paragraph 5 and Exhibit E of the Memorandum, as amended, are deleted. In place thereof, Paragraph 5 shall now read:

5. **Excepted from Transfer.** The LDRA shall retain the Dredge Containment Site described at **Exhibit C**, subject to the following obligations:

a. The LDRA will convey the Dredge Containment Site described on **Exhibit C**, by general warranty deed, free and clear of all liens, restrictions and encumbrances, subject only to those liens and easements (the "*Dredge Containment Easements*") listed on **Exhibit F** and **Exhibit G, the "LDRA Transfer Restriction" at Paragraph 1A and its subparts**, and the Right of First Refusal in favor Kevin Harbach, in the event the LDRA or the District secures a consent to transfer the Dredge Containment Site from Kevin Harbach to the District or other similar agreement with Kevin Harbach. Said conveyance shall occur as soon as possible following of the date that the LDRA or District secures said consent from Kevin Harbach. Immediately following a securing of said consent, the LDRA shall cause to be extended the abstract of title for the Dredge Containment Site which shall show marketable title in the LDRA in accordance with this Agreement, Iowa law and the Iowa Land Title Standards and shall deliver the same to the District's attorney for review. The abstract shall become the property of the District following closing.

3. The first sentence of Memorandum Paragraph 9 is amended to substitute _____, 2013 for January 14, 2013.

4. Paragraph 2 of the Second Amendment is deleted.

5. Exhibit B of the Memorandum, as amended by Paragraph 8 of the First Amendment, is amended to reinsert into the enumeration of "The Current LDRA Real Estate" subparagraph (xiii) as originally provided for in the Memorandum.

6. Except for the terms and conditions of the Memorandum, as amended, amended hereby, all remaining terms and conditions of the Memorandum of Agreement as modified shall remain in full force and effect.

LAKE DELHI COMBINED
RECREATIONAL FACILITY AND WATER QUALITY DISTRICT

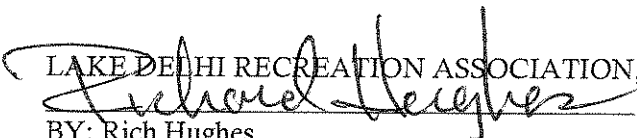
BY: _____

ITS: _____

Dated: _____

As authorized by resolution of its Board of Directors dated:

LAKE DELHI RECREATION ASSOCIATION, INC.


BY: Rich Hughes

ITS: President

Dated: 9-5-13

As authorized by resolution of it's Board of Directors dated: