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 7 SUNRISE RECREATION & PARK DISTRICT

8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10 CONNIE ARNOLD,
 11 Plaintiff,
 12 vs.
 13 COUNTY OF SACRAMENTO; SUNRISE
 14 RECREATION & PARK DISTRICT; and
 15 DOES 1 through 50, inclusive,
 16 Defendants.

Case No. 2:12-CV-01998-LKK-EFB
 DEFENDANT SUNRISE RECREATION &
 PARK DISTRICT’S ANSWER TO
 PLAINTIFF CONNIE ARNOLD’S FIRST
 AMENDED COMPLAINT; DEMAND FOR
 JURY TRIAL

17 Comes now defendant SUNRISE RECREATION & PARK DISTRICT (“defendant” or “this
 18 answering defendant”) and, in answer to the allegations in plaintiff CONNIE ARNOLD’s First
 19 Amended Complaint (“complaint”) on file herein, admits, denies and alleges as follows:

20 In answer to the allegations of the introductory paragraph of the complaint, this paragraph
 21 contains plaintiff’s introductory statement, to which no response is required. To the extent a response is
 22 deemed required, defendant has no information or belief to enable it to answer said allegations, and for
 23 that reason and basing its denial on that ground, denies both generally and specifically, each and every,
 24 all and singular, the allegations contained therein.

25 **I. INTRODUCTION**

26 1. In answer to the allegations of paragraph 1 of the complaint, this paragraph contains
 27 plaintiff’s characterization of the Americans with Disabilities Act, to which no response is required. To
 28 the extent a response is deemed required, defendant has no information or belief to enable it to answer

1 said allegations, and for that reason and basing its denial on that ground, denies both generally and
2 specifically, each and every, all and singular, the allegations contained therein.

3 2. In answer to the allegations of sentence 1 of paragraph 2 of the complaint, defendant
4 admits that Crosswoods Park is located near the corner of Auburn Boulevard and Van Maren Lane in
5 the City of Citrus Heights; in answer to the remaining allegations of sentence 1 of paragraph 2 of the
6 complaint, defendant has no information or belief to enable it to answer said allegations, and for that
7 reason and basing its denial on that ground, denies both generally and specifically, each and every, all
8 and singular, the allegations contained therein. In answer to the allegations of sentence 2 of paragraph 2
9 of the complaint, to the extent the allegations are directed against this answering defendant, defendant
10 denies both generally and specifically, each and every, all and singular, the allegations contained
11 therein; to the extent the allegations are directed against other defendants, defendant has no information
12 or belief to enable it to answer said allegations, and for that reason and basing its denial on that ground,
13 denies both generally and specifically, each and every, all and singular, the allegations contained
14 therein. In answer to the allegations of sentence 3 of paragraph 2 of the complaint, to the extent the
15 allegations are directed against this answering defendant, defendant denies both generally and
16 specifically, each and every, all and singular, the allegations contained therein; to the extent the
17 allegations are directed against other defendants, defendant has no information or belief to enable it to
18 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
19 and specifically, each and every, all and singular, the allegations contained therein. In answer to the
20 allegations of sentence 4 of paragraph 2 of the complaint, to the extent the allegations are directed
21 against this answering defendant, defendant denies both generally and specifically, each and every, all
22 and singular, the allegations contained therein; to the extent the allegations are directed against other
23 defendants, defendant has no information or belief to enable it to answer said allegations, and for that
24 reason and basing its denial on that ground, denies both generally and specifically, each and every, all
25 and singular, the allegations contained therein.

26 3. In answer to the allegations of sentence 1 of paragraph 3 of the complaint, to the extent
27 the allegations are directed against this answering defendant, defendant denies both generally and
28 specifically, each and every, all and singular, the allegations contained therein; to the extent the

1 allegations are directed against other defendants, defendant has no information or belief to enable it to
2 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
3 and specifically, each and every, all and singular, the allegations contained therein. In answer to the
4 allegations of sentence 2 of paragraph 3 of the complaint, this sentence contains plaintiff's
5 characterization of her suit, to which no response is required; to the extent a response is deemed
6 required, defendant denies both generally and specifically, each and every, all and singular, the
7 allegations contained therein, and specifically denies that plaintiff is entitled to any relief.

8 **II. JURISDICTION AND VENUE**

9 4. In answer to the allegations of paragraph 4 of the complaint, this paragraph contains
10 plaintiff's jurisdiction allegations, to which no response is required. To the extent a response is deemed
11 required, defendant denies both generally and specifically, each and every, all and singular, the
12 allegations contained therein, except to admit that this Court has jurisdiction of the above-captioned
13 matter.

14 5. In answer to the allegations of paragraph 5 of the complaint, this paragraph contains
15 plaintiff's venue allegations, to which no response is required. To the extent a response is deemed
16 required, defendant denies both generally and specifically, each and every, all and singular, the
17 allegations contained therein, except to admit that venue is proper in this District.

18 **III. PARTIES**

19 6. In answer to the allegations of paragraph 6 of the complaint, defendant has no
20 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
21 that ground, denies both generally and specifically, each and every, all and singular, the allegations
22 contained therein.

23 7. In answer to the allegations of paragraph 7 of the complaint, defendant has no
24 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
25 that ground, denies both generally and specifically, each and every, all and singular, the allegations
26 contained therein.

27 8. In answer to the allegations of paragraph 8 of the complaint, defendant has no
28 information or belief to enable it to answer said allegations, and for that reason and basing its denial on

1 that ground, denies both generally and specifically, each and every, all and singular, the allegations
2 contained therein.

3 9. In answer to the allegations of paragraph 9 of the complaint, defendant has no
4 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
5 that ground, denies both generally and specifically, each and every, all and singular, the allegations
6 contained therein.

7 10. In answer to the allegations of paragraph 10 of the complaint, defendant has no
8 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
9 that ground, denies both generally and specifically, each and every, all and singular, the allegations
10 contained therein, except to admit that defendant is a public entity.

11 11. In answer to the allegations of paragraph 11 of the complaint, defendant has no
12 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
13 that ground, denies both generally and specifically, each and every, all and singular, the allegations
14 contained therein, except to admit that defendant owns Crosswoods Park, which is located at 6742
15 Auburn Boulevard, Citrus Heights, California 95621.

16 12. In answer to the allegations of paragraph 12 of the complaint, defendant has no
17 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
18 that ground, denies both generally and specifically, each and every, all and singular, the allegations
19 contained therein.

20 **IV. GOVERNMENT CLAIM**

21 13. In answer to the allegations of paragraph 13 of the complaint, defendant has no
22 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
23 that ground, denies both generally and specifically, each and every, all and singular, the allegations
24 contained therein.

25 14. In answer to the allegations of paragraph 14 of the complaint, defendant has no
26 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
27 that ground, denies both generally and specifically, each and every, all and singular, the allegations
28 contained therein.

1 15. In answer to the allegations of paragraph 15 of the complaint, defendant has no
2 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
3 that ground, denies both generally and specifically, each and every, all and singular, the allegations
4 contained therein.

5 **V. FACTS UPON WHICH ALL CLAIMS ARE BASED**

6 16. In answer to the allegations of sentence 1 of paragraph 16 of the complaint, admitted that
7 the Sylvan Oaks Public Library is located adjacent to Crosswoods Park; in answer to the remaining
8 allegations of sentence 1 of paragraph 16 of the complaint, defendant has no information or belief to
9 enable it to answer said allegations, and for that reason and basing its denial on that ground, denies both
10 generally and specifically, each and every, all and singular, the allegations contained therein. In answer
11 to the allegations of sentence 2 of paragraph 16 of the complaint, defendant has no information or belief
12 to enable it to answer said allegations, and for that reason and basing its denial on that ground, denies
13 both generally and specifically, each and every, all and singular, the allegations contained therein. In
14 answer to the allegations of sentence 3 of paragraph 16 of the complaint, admitted.

15 17. In answer to the allegations of paragraph 17 of the complaint, defendant has no
16 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
17 that ground, denies both generally and specifically, each and every, all and singular, the allegations
18 contained therein.

19 18. In answer to the allegations of paragraph 18 of the complaint, defendant has no
20 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
21 that ground, denies both generally and specifically, each and every, all and singular, the allegations
22 contained therein.

23 19. In answer to the allegations of paragraph 19 of the complaint, defendant has no
24 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
25 that ground, denies both generally and specifically, each and every, all and singular, the allegations
26 contained therein.

27 20. In answer to the allegations of paragraph 20 of the complaint, defendant has no
28 information or belief to enable it to answer said allegations, and for that reason and basing its denial on

1 that ground, denies both generally and specifically, each and every, all and singular, the allegations
2 contained therein.

3 21. In answer to the allegations of paragraph 21 of the complaint, defendant has no
4 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
5 that ground, denies both generally and specifically, each and every, all and singular, the allegations
6 contained therein.

7 22. In answer to the allegations of paragraph 22 of the complaint, defendant has no
8 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
9 that ground, denies both generally and specifically, each and every, all and singular, the allegations
10 contained therein.

11 23. In answer to the allegations of paragraph 23 of the complaint, defendant has no
12 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
13 that ground, denies both generally and specifically, each and every, all and singular, the allegations
14 contained therein.

15 24. In answer to the allegations of paragraph 24 of the complaint, defendant has no
16 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
17 that ground, denies both generally and specifically, each and every, all and singular, the allegations
18 contained therein.

19 25. In answer to the allegations of paragraph 25 of the complaint, defendant has no
20 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
21 that ground, denies both generally and specifically, each and every, all and singular, the allegations
22 contained therein.

23 26. In answer to the allegations of paragraph 26 of the complaint, defendant has no
24 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
25 that ground, denies both generally and specifically, each and every, all and singular, the allegations
26 contained therein.

27 27. In answer to the allegations of paragraph 27 of the complaint, defendant has no
28 information or belief to enable it to answer said allegations, and for that reason and basing its denial on

1 that ground, denies both generally and specifically, each and every, all and singular, the allegations
2 contained therein.

3 28. In answer to the allegations of paragraph 28 of the complaint, to the extent the
4 allegations are directed against this answering defendant, defendant denies both generally and
5 specifically, each and every, all and singular, the allegations contained therein; to the extent the
6 allegations are directed against other defendants, defendant has no information or belief to enable it to
7 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
8 and specifically, each and every, all and singular, the allegations contained therein.

9 29. In answer to the allegations of paragraph 29 of the complaint, to the extent the
10 allegations are directed against this answering defendant, defendant denies both generally and
11 specifically, each and every, all and singular, the allegations contained therein; to the extent the
12 allegations are directed against other defendants, defendant has no information or belief to enable it to
13 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
14 and specifically, each and every, all and singular, the allegations contained therein.

15 30. In answer to the allegations of paragraph 30 of the complaint, to the extent the
16 allegations are directed against this answering defendant, defendant denies both generally and
17 specifically, each and every, all and singular, the allegations contained therein; to the extent the
18 allegations are directed against other defendants, defendant has no information or belief to enable it to
19 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
20 and specifically, each and every, all and singular, the allegations contained therein.

21 **VI. NOTICE**

22 31. In answer to the allegations of paragraph 31 of the complaint, including footnote number
23 1, defendant has no information or belief to enable it to answer said allegations, and for that reason and
24 basing its denial on that ground, denies both generally and specifically, each and every, all and singular,
25 the allegations contained therein.

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1 **VII. CLAIMS FOR RELIEF**

2 **FIRST CAUSE OF ACTION:**
3 **VIOLATION OF THE**
4 **AMERICANS WITH DISABILITIES ACT – TITLE II**

5 **42 U.S.C. § 1210 *et seq.* and § 12131 *et seq.***

6 32. In answer to the allegations of paragraph 32 of the complaint, this paragraph contains
7 plaintiff's incorporation by reference of previous paragraphs, to which no response is required. To the
8 extent a response is deemed required, defendant denies both generally and specifically, each and every,
9 all and singular, the allegations contained therein.

10 33. In answer to the allegations of paragraph 33 of the complaint, this paragraph contains
11 plaintiff's characterization of the Americans with Disabilities Act, to which no response is required; to
12 the extent a response is deemed required, defendant denies both generally and specifically, each and
13 every, all and singular, the allegations contained therein, except to refer to the statute, which speaks for
14 itself.

15 34. In answer to the allegations of paragraph 34 of the complaint, this paragraph contains
16 plaintiff's characterization of the Americans with Disabilities Act, to which no response is required; to
17 the extent a response is deemed required, defendant denies both generally and specifically, each and
18 every, all and singular, the allegations contained therein, except to refer to the statute, which speaks for
19 itself.

20 35. In answer to the allegations of sentence 1 of paragraph 35 of the complaint, admitted that
21 defendant owns Crosswoods Park; in answer to the remaining allegations of sentence 1 of paragraph 35
22 of the complaint, defendant has no information or belief to enable it to answer said allegations, and for
23 that reason and basing its denial on that ground, denies both generally and specifically, each and every,
24 all and singular, the allegations contained therein. In answer to the allegations of sentence 2 of
25 paragraph 35 of the complaint, this sentence contains plaintiff's characterization of the Americans with
26 Disabilities Act, to which no response is required; to the extent a response is deemed required,
27 defendant denies both generally and specifically, each and every, all and singular, the allegations
28 contained therein, except to refer to the statute, which speaks for itself. In answer to the allegations of
sentence 3 of paragraph 35 of the complaint, admitted that defendant is a public entity; in answer to the

1 remaining allegations of sentence 3 of paragraph 35 of the complaint, defendant has no information or
2 belief to enable it to answer said allegations, and for that reason and basing its denial on that ground,
3 denies both generally and specifically, each and every, all and singular, the allegations contained
4 therein.

5 36. In answer to the allegations of sentence 1 through subparagraphs a), b) and c) of
6 paragraph 36 of the complaint, to the extent the allegations are directed against this answering
7 defendant, defendant denies both generally and specifically, each and every, all and singular, the
8 allegations contained therein; to the extent the allegations are directed against other defendants,
9 defendant has no information or belief to enable it to answer said allegations, and for that reason and
10 basing its denial on that ground, denies both generally and specifically, each and every, all and singular,
11 the allegations contained therein. In answer to the allegations of subparagraphs c)i. through c)iii. of
12 paragraph 36 of the complaint, these subparagraphs contain plaintiff's characterization of a federal
13 regulation, to which no response is required; to the extent a response is deemed required, defendant
14 denies both generally and specifically, each and every, all and singular, the allegations contained
15 therein, except to refer to the regulation, which speaks for itself.

16 37. In answer to the allegations of sentences 1 and 2 of paragraph 37 of the complaint, to the
17 extent the allegations are directed against this answering defendant, defendant denies both generally
18 and specifically, each and every, all and singular, the allegations contained therein; to the extent the
19 allegations are directed against other defendants, defendant has no information or belief to enable it to
20 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
21 and specifically, each and every, all and singular, the allegations contained therein. In answer to the
22 allegations of sentence 3 of paragraph 37 of the complaint, this sentence contains plaintiff's
23 characterization of relief sought, to which no response is required; to the extent a response is deemed
24 required, defendant denies both generally and specifically, each and every, all and singular, the
25 allegations contained therein, and specifically denies that plaintiff is entitled to any relief.

26 In answer to the allegations of the sentence following paragraph 37 of the complaint, this
27 sentence contains plaintiff's characterization of relief sought, to which no response is required; to the
28 extent a response is deemed required, defendant denies both generally and specifically, each and every,

1 all and singular, the allegations contained therein, and specifically denies that plaintiff is entitled to any
2 relief.

3 **SECOND CAUSE OF ACTION:**
4 **VIOLATION OF SECTION 504 OF THE REHABILITATION ACT**
5 **29 U.S.C. § 794**

6 38. In answer to the allegations of paragraph 38 of the complaint, this paragraph contains
7 plaintiff's incorporation by reference of previous paragraphs, to which no response is required. To the
8 extent a response is deemed required, defendant denies both generally and specifically, each and every,
9 all and singular, the allegations contained therein.

10 39. In answer to the allegations of paragraph 39 of the complaint, this paragraph contains
11 plaintiff's characterization of the Rehabilitation Act, to which no response is required; to the extent a
12 response is deemed required, defendant denies both generally and specifically, each and every, all and
13 singular, the allegations contained therein, except to refer to the statute, which speaks for itself.

14 40. In answer to the allegations of sentence 1 of paragraph 40 of the complaint, defendant
15 admits that it is a governmental agency; in answer to the remaining allegations of sentence 1 of
16 paragraph 40 of the complaint, defendant has no information or belief to enable it to answer said
17 allegations, and for that reason and basing its denial on that ground, denies both generally and
18 specifically, each and every, all and singular, the allegations contained therein. In answer to the
19 allegation, in sentence 2 of paragraph 40 of the complaint, "but which are denied to Plaintiff on the
20 basis of disability[.]" to the extent the allegation is directed against this answering defendant, defendant
21 denies both generally and specifically, each and every, all and singular, the allegation; in answer to the
22 remaining allegations of sentence 2 of paragraph 40 of the complaint, defendant has no information or
23 belief to enable it to answer said allegations, and for that reason and basing its denial on that ground,
24 denies both generally and specifically, each and every, all and singular, the allegations contained
25 therein.

26 41. In answer to the allegations of paragraph 41 of the complaint, to the extent the
27 allegations are directed against this answering defendant, defendant denies both generally and
28 specifically, each and every, all and singular, the allegations contained therein; to the extent the
allegations are directed against other defendants, defendant has no information or belief to enable it to

1 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
2 and specifically, each and every, all and singular, the allegations contained therein.

3 42. In answer to the allegations of sentence 1 of paragraph 42 of the complaint, to the extent
4 the allegations are directed against this answering defendant, defendant denies both generally and
5 specifically, each and every, all and singular, the allegations contained therein; to the extent the
6 allegations are directed against other defendants, defendant has no information or belief to enable it to
7 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
8 and specifically, each and every, all and singular, the allegations contained therein. In answer to the
9 allegations of sentence 2 of paragraph 42 of the complaint, this sentence contains plaintiff's
10 characterization of relief sought, to which no response is required; to the extent a response is deemed
11 required, defendant denies both generally and specifically, each and every, all and singular, the
12 allegations contained therein, and specifically denies that plaintiff is entitled to any relief.

13 43. In answer to the allegations of paragraph 43 of the complaint, this paragraph contains
14 plaintiff's characterization of relief sought, to which no response is required; to the extent a response is
15 deemed required, defendant denies both generally and specifically, each and every, all and singular, the
16 allegations contained therein, and specifically denies that plaintiff is entitled to any relief.

17 44. In answer to the allegations of paragraph 44 of the complaint, to the extent the
18 allegations are directed against this answering defendant, defendant denies both generally and
19 specifically, each and every, all and singular, the allegations contained therein; to the extent the
20 allegations are directed against other defendants, defendant has no information or belief to enable it to
21 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
22 and specifically, each and every, all and singular, the allegations contained therein.

23 In answer to the allegations of the sentence following paragraph 44 of the complaint, this
24 sentence contains plaintiff's characterization of relief sought, to which no response is required; to the
25 extent a response is deemed required, defendant denies both generally and specifically, each and every,
26 all and singular, the allegations contained therein, and specifically denies that plaintiff is entitled to any
27 relief.

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1 **THIRD CAUSE OF ACTION:**

2 **Cal. Gov't Codes §§ 11135 and 4450 et seq.**

3 45. In answer to the allegations of paragraph 45 of the complaint, this paragraph contains
4 plaintiff's incorporation by reference of previous paragraphs, to which no response is required. To the
5 extent a response is deemed required, defendant denies both generally and specifically, each and every,
6 all and singular, the allegations contained therein.

7 46. In answer to the allegations of paragraph 46 of the complaint, from "Plaintiff is
8 informed..." through "...Government Code § 1135," to the extent the allegations are directed against
9 this answering defendant, defendant denies both generally and specifically, each and every, all and
10 singular, the allegations contained therein; to the extent the allegations are directed against other
11 defendants, defendant has no information or belief to enable it to answer said allegations, and for that
12 reason and basing its denial on that ground, denies both generally and specifically, each and every, all
13 and singular, the allegations contained therein. In answer to the remaining allegations of paragraph 46
14 of the complaint, defendant has no information or belief to enable it to answer said allegations, and for
15 that reason and basing its denial on that ground, denies both generally and specifically, each and every,
16 all and singular, the allegations contained therein.

17 47. In answer to the allegations of sentence 1 of paragraph 47 of the complaint, admitted that
18 defendant owns the Park; in answer to the remaining allegations of sentence 1 of paragraph 47 of the
19 complaint, defendant has no information or belief to enable it to answer said allegations, and for that
20 reason and basing its denial on that ground, denies both generally and specifically, each and every, all
21 and singular, the allegations contained therein. In answer to the allegations of sentence 2 of paragraph
22 47 of the complaint, from "Plaintiff is further..." through "...public portions of the Library and Park,"
23 defendant has no information or belief to enable it to answer said allegations, and for that reason and
24 basing its denial on that ground, denies both generally and specifically, each and every, all and singular,
25 the allegations contained therein; in answer to the remaining allegations of sentence 2 of paragraph 47
26 of the complaint, to the extent the allegations are directed against this answering defendant, defendant
27 denies both generally and specifically, each and every, all and singular, the allegations contained
28 therein; to the extent the allegations are directed toward other defendants, defendant has no information

1 or belief to enable it to answer said allegations, and for that reason and basing its denial on that ground,
2 denies both generally and specifically, each and every, all and singular, the allegations contained
3 therein.

4 48. In answer to the allegations of paragraph 48 of the complaint, to the extent the
5 allegations are directed against this answering defendant, defendant denies both generally and
6 specifically, each and every, all and singular, the allegations contained therein; to the extent the
7 allegations are directed toward other defendants, defendant has no information or belief to enable it to
8 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
9 and specifically, each and every, all and singular, the allegations contained therein.

10 49. In answer to the allegations of paragraph 49 of the complaint, to the extent the
11 allegations are directed against this answering defendant, defendant denies both generally and
12 specifically, each and every, all and singular, the allegations contained therein; to the extent the
13 allegations are directed toward other defendants, defendant has no information or belief to enable it to
14 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
15 and specifically, each and every, all and singular, the allegations contained therein.

16 In answer to the allegations of the sentence following paragraph 49 of the complaint, this
17 sentence contains plaintiff's characterization of relief sought, to which no response is required; to the
18 extent a response is deemed required, defendant denies both generally and specifically, each and every,
19 all and singular, the allegations contained therein, and specifically denies that plaintiff is entitled to any
20 relief.

21 **FOURTH CAUSE OF ACTION:**
22 **CALIFORNIA DISABLED PERSONS ACT ("CDPA")**
23 **Cal. Civ. Code § 54 et seq.**

24 50. In answer to the allegations of paragraph 50 of the complaint, this paragraph contains
25 plaintiff's incorporation by reference of previous paragraphs, to which no response is required. To the
26 extent a response is deemed required, defendant denies both generally and specifically, each and every,
27 all and singular, the allegations contained therein.

28 51. In answer to the allegations of paragraph 51 of the complaint, defendant has no
information or belief to enable it to answer said allegations, and for that reason and basing its denial on

1 that ground, denies both generally and specifically, each and every, all and singular, the allegations
2 contained therein, except to admit that Crosswoods Park is open to the public.

3 52. In answer to the allegations of paragraph 52 of the complaint, this paragraph contains
4 plaintiff's characterization of the California Disabled Persons Act, to which no response is required; to
5 the extent a response is deemed required, defendant denies both generally and specifically, each and
6 every, all and singular, the allegations contained therein, except to refer to the statute, which speaks for
7 itself.

8 53. In answer to the allegations of paragraph 53 of the complaint, this paragraph contains
9 plaintiff's characterization of the California Disabled Persons Act, to which no response is required; to
10 the extent a response is deemed required, defendant denies both generally and specifically, each and
11 every, all and singular, the allegations contained therein, except to refer to the statute, which speaks for
12 itself.

13 54. In answer to the allegations of paragraph 54 of the complaint, to the extent the
14 allegations are directed against this answering defendant, defendant denies both generally and
15 specifically, each and every, all and singular, the allegations contained therein; to the extent the
16 allegations are directed toward other defendants, defendant has no information or belief to enable it to
17 answer said allegations, and for that reason and basing its denial on that ground, denies both generally
18 and specifically, each and every, all and singular, the allegations contained therein.

19 55. In answer to the allegations of paragraph 55 of the complaint, defendant has no
20 information or belief to enable it to answer said allegations, and for that reason and basing its denial on
21 that ground, denies both generally and specifically, each and every, all and singular, the allegations
22 contained therein.

23 In answer to the allegations of the sentence following paragraph 55 of the complaint, this
24 sentence contains plaintiff's characterization of relief sought, to which no response is required; to the
25 extent a response is deemed required, defendant denies both generally and specifically, each and every,
26 all and singular, the allegations contained therein, and specifically denies that plaintiff is entitled to any
27 relief.

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1 **VIII. PRAYER FOR RELIEF**

2 In answer to the allegations of page 18, lines 5-20 of the complaint, these allegations contain
3 plaintiff's prayer for relief, to which no response is required; to the extent a response is deemed
4 required, defendant denies both generally and specifically, each and every, all and singular, the
5 allegations contained therein, and specifically denies that plaintiff is entitled to any relief.

6 Except as expressly admitted above, defendant denies each and every allegation contained in
7 plaintiff's first amended complaint.

8 **AFFIRMATIVE DEFENSES**

9 **FIRST AFFIRMATIVE DEFENSE**

10 AS AND FOR A FIRST, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

11 ALLEGES:

12 Plaintiff's complaint fails to state facts sufficient to constitute a cause of action against this
13 answering defendant.

14 **SECOND AFFIRMATIVE DEFENSE**

15 AS AND FOR A SECOND, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

16 ALLEGES:

17 Plaintiff's complaint is barred by the applicable statute of limitations, including without
18 limitation, those provided for in California Code of Civil Procedure sections 335.1, 337, 337.1, 338,
19 339, 340, and 343, and Government Code section 12960.

20 **THIRD AFFIRMATIVE DEFENSE**

21 AS AND FOR A THIRD, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

22 ALLEGES:

23 Plaintiff has failed to mitigate her damages, and to the extent of this failure to mitigate, any
24 damages awarded to plaintiff should be reduced accordingly.

25 **FOURTH AFFIRMATIVE DEFENSE**

26 AS AND FOR A FOURTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

27 ALLEGES:

28 Plaintiff has failed to exhaust her administrative remedies, and therefore plaintiff's complaint

1 should be dismissed.

2 FIFTH AFFIRMATIVE DEFENSE

3 AS AND FOR A FIFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

4 ALLEGES:

5 Plaintiff has failed to join a party pursuant to Rule 19.

6 SIXTH AFFIRMATIVE DEFENSE

7 AS AND FOR A SIXTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

8 ALLEGES:

9 Plaintiff's claims are barred pursuant to the principles of res judicata and collateral estoppel.

10 SEVENTH AFFIRMATIVE DEFENSE

11 AS AND FOR A SEVENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

12 ALLEGES:

13 Plaintiff assumed the risk of any injuries and/or damages resulting from the matters set forth in
14 her complaint. The assumption of risk by plaintiff was a cause of her injuries and/or damages.

15 EIGHTH AFFIRMATIVE DEFENSE

16 AS AND FOR AN EIGHTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

17 ALLEGES:

18 Plaintiff was herself negligent and careless in and about the matters and events set forth in her
19 complaint and said negligence contributed to her alleged injuries and/or damages. A verdict of the jury
20 in favor of plaintiff, if any, which may be rendered in this case must therefore be reduced by the
21 percentage that plaintiff's negligence contributed to the accident and injuries complaint of, if any there
22 were.

23 NINTH AFFIRMATIVE DEFENSE

24 AS AND FOR A NINTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

25 ALLEGES:

26 Any alleged discrimination was not arbitrary or intentional.

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1 TENTH AFFIRMATIVE DEFENSE

2 AS AND FOR A TENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

3 ALLEGES:

4 Plaintiff is not a “qualified individual with a disability”.

5 ELEVENTH AFFIRMATIVE DEFENSE

6 AS AND FOR A ELEVENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

7 ALLEGES:

8 The complaint and each of its causes of action are barred by the equitable doctrines of unclean
9 hands, estoppel and waiver.

10 TWELFTH AFFIRMATIVE DEFENSE

11 AS AND FOR A TWELFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

12 ALLEGES:

13 Defendant asserts that the alleged discriminatory conduct was required by law [Civil Code
14 section 51(c)].

15 THIRTEENTH AFFIRMATIVE DEFENSE

16 AS AND FOR A THIRTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

17 ALLEGES:

18 Defendant asserts that its alleged refusal to allow access was not discriminatory, but was caused
19 by the structure of the facility(ies) and by the fact that plaintiff’s special needs prevented her admission
20 to the facility without construction, alteration or modification that is not otherwise required by law
21 [Civil Code section 51(d), 52(g)].

22 FOURTEENTH AFFIRMATIVE DEFENSE

23 AS AND FOR A FOURTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

24 ALLEGES:

25 Plaintiff was not discriminated against based solely on her disability.

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1 FIFTEENTH AFFIRMATIVE DEFENSE

2 AS AND FOR A FIFTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

3 ALLEGES:

4 Plaintiff does not face a real or immediate threat of substantial injury and is therefore not
5 entitled to injunctive relief.

6 SIXTEENTH AFFIRMATIVE DEFENSE

7 AS AND FOR A SIXTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

8 ALLEGES:

9 Any and all acts or omissions of defendant, its agents and employees, which allegedly caused
10 the injury at the time and place set forth were the result of an exercise of discretion vested in them.

11 SEVENTEENTH AFFIRMATIVE DEFENSE

12 AS AND FOR A SEVENTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

13 ALLEGES:

14 Defendant alleges that plaintiff failed to set forth the facts sufficient to state a cause of action
15 due to a failure to comply with claims requirements of the California Government Code sections 900,
16 et. seq.

17 EIGHTEENTH AFFIRMATIVE DEFENSE

18 AS AND FOR A EIGHTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

19 ALLEGES:

20 Any and all mandatory duties imposed upon defendant, its agents and employees, the failure of
21 which allegedly created the condition complained of, were exercised with reasonable diligence and
22 therefore defendant is not liable pursuant to Government Code section 815.6.

23 NINETEENTH AFFIRMATIVE DEFENSE

24 AS AND FOR A NINETEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT

25 ALLEGES:

26 The plaintiff is barred from any recovery herein as to this answering defendant in that any
27 damages and injuries proven to have been sustained by the plaintiff herein would be the direct and
28 proximate result of the independent negligence and/or unlawful conduct of independent third parties, or

1 their agents, or employees and not any act or omission on the part of this answering defendant or its
2 agents or employees.

3 TWENTIETH AFFIRMATIVE DEFENSE

4 AS AND FOR A TWENTIETH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
5 ALLEGES:

6 Defendant is immune from liability pursuant to the provisions of sections 815, 815.2, 815.3,
7 818, 818.2, 818.6, 820.2, 820.6, 820.8, 820.9 and 821 of the Government Code of the State of
8 California.

9 TWENTY-FIRST AFFIRMATIVE DEFENSE

10 AS AND FOR A TWENTY-FIRST, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
11 ALLEGES:

12 When viewed in its entirety, the subject buildings and facilities are readily accessible to and
13 useable by individuals with disabilities.

14 TWENTY-SECOND AFFIRMATIVE DEFENSE

15 AS AND FOR A TWENTY-SECOND, SEPARATE AND DISTINCT DEFENSE,
16 DEFENDANT ALLEGES:

17 Defendant is not required to take any action that would result in a fundamental alteration
18 in the nature of its services, programs or activities, or in undue financial and administrative burdens.

19 TWENTY-THIRD AFFIRMATIVE DEFENSE

20 AS AND FOR A TWENTY-THIRD, SEPARATE AND DISTINCT DEFENSE,
21 DEFENDANT ALLEGES:

22 Defendant did not receive federal funding in association with the programs, activities, services
23 and benefits participated in by plaintiff.

24 TWENTY-FOURTH AFFIRMATIVE DEFENSE

25 AS AND FOR A TWENTY-FOURTH, SEPARATE AND DISTINCT DEFENSE,
26 DEFENDANT ALLEGES:

27 Plaintiff lacks standing.

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1 TWENTY-FIFTH AFFIRMATIVE DEFENSE

2 AS AND FOR A TWENTY-FIFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANT
3 ALLEGES:

4 Defendant has insufficient knowledge or information upon which to form a belief as to whether
5 it may have additional, as yet unstated, affirmative defenses. Defendant reserves the right to answer
6 additional affirmative defenses in the event discovery indicates it would be appropriate.

7 WHEREFORE, Defendant requests that:

- 8 1. Plaintiff takes nothing by this action;
9 2. A judgment of dismissal be entered in favor of defendant;
10 3. Defendant be awarded attorney fees and costs of suit incurred; and
11 4. Defendant be awarded any other and further relief the court considers proper.

12
13 DEMAND FOR JURY TRIAL

14 Defendant hereby demands a jury trial in this action.

15
16 Dated: September 20, 2012.

17 LOW, BALL & LYNCH

18
19 By s/ Dirk D. Larsen
20 MARK F. HAZELWOOD
21 DIRK D. LARSEN
22 Attorneys for Defendant
23 SUNRISE RECREATION & PARK DISTRICT
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