



# AGENDA

18700 Ward St.  
Fountain Valley, CA 92708  
(714) 378-3200

SPECIAL PROPERTY MANAGEMENT COMMITTEE MEETING  
WITH BOARD OF DIRECTORS \*  
ORANGE COUNTY WATER DISTRICT  
**Friday, October 25, 2024 – 1:30 p.m. – Conference Room C-2**

\*The OCWD Property Management Committee meeting is noticed as a joint meeting with the Board of Directors for the purpose of strict compliance with the Brown Act and it provides an opportunity for all Directors to hear presentations and participate in discussions. Directors receive no additional compensation or stipend as a result of simultaneously convening this meeting. Items recommended for approval at this meeting will be placed on **November 6, 2024**, Board meeting Agenda for approval.

This meeting will be held in person. As a convenience for the public, the meeting may also be accessed by Zoom Webinar and will be available by either computer or telephone audio as indicated below. Because this is an in-person meeting and the Zoom component is not required, but rather is being offered as a convenience, if there are any technical issues during the meeting, this meeting will continue and will not be suspended.

**Computer Audio: You can join the Zoom meeting by clicking on the following link:**  
<https://ocwd.zoom.us/j/81364630427>

Meeting ID: 813 6463 0427

Telephone Audio: (213) 338 8477

Teleconference Sites:  
10382 Bonnie Drive, Garden Grove  
19 Cannery, Buena Park  
1502 North Broadway, Santa Ana  
6148 E Baja Dr, Anaheim  
20 Civic Center, Santa Ana

\* Members of the public may attend and participate at all locations.

## ROLL CALL

## ITEMS RECEIVED TOO LATE TO BE AGENDIZED

RECOMMENDATION: Adopt resolution determining need to take immediate action on item(s) and that the need for action came to the attention of the District subsequent to the posting of the Agenda (requires two-thirds vote of the Board members present, or, if less than two-thirds of the members are present, a unanimous vote of those members present.)

## VISITOR PARTICIPATION

Time has been reserved at this point in the agenda for persons wishing to comment for up to three minutes to the Board of Directors on any item that is not listed on the agenda, but within the subject matter jurisdiction of the District. By law, the Board of Directors is prohibited from taking action on such public comments. As appropriate, matters raised in these public comments will be referred to District staff or placed on the agenda of an upcoming Board meeting.

At this time, members of the public may also offer public comment for up to three minutes on any item on the Consent Calendar. While members of the public may not remove an item from the Consent Calendar for separate discussion, a Director may do so at the request of a member of the public.

## **CONSENT CALENDAR (ITEMS NO. 1 - 3)**

All matters on the Consent Calendar are to be approved by one motion, without separate discussion on these items, unless a Board member or District staff request that specific items be removed from the Consent Calendar for separate consideration.

1. MINUTES OF PROPERTY MANAGEMENT COMMITTEE MEETING HELD SEPTEMBER 20, 2024  
RECOMMENDATION: Approve minutes as presented
2. LICENSE AGREEMENT WEST OF HIGHWAY 71/PRADO BASIN  
RECOMMENDATION: Agendize for November 6 Board meeting: Approve and authorize execution of License Agreements with Rene Banuelos and Carlos Sanchez for access across District's Property, located west of Highway 71, for a five-year period, with a License Fee of \$1,148.
3. APPROVAL REQUEST FOR REPAIR AND IMPROVEMENTS OF ORANGE COUNTY FLOOD CONTROL FACILITIES AT SANTIAGO BASIN  
RECOMMENDATION: Agendize for November 6 Board meeting: Authorize written approval for the Orange Flood Control District to conduct repairs and improvements to their flood control facilities on District property located at Villa Park Road, City of Orange, in accordance with the Easement Deed granted on June 20, 1990.

## **MATTER FOR CONSIDERATION**

4. LICENSE AGREEMENT WITH ORANGE COUNTY FLOOD CONTROL DISTRICT FOR ALAMITOS SEAWATER BARRIER PROJECT  
RECOMMENDATION: Agendize for November 6 Board meeting:
  1. Authorize General Manager to finalize negotiations and execute a License Agreement with Orange County Flood Control District for the Alamitos Barrier Project facilities for a ten (10) year term with an initial annual use fee not to exceed \$16,000 with an increase of \$200 annually; and
  2. Authorize General Manager to finalize negotiations and execute a pollution liability insurance policy with \$1 million coverage as required by the Orange County Flood Control District License Agreement for an initial term of 3 years, including payment of the initial premium in an amount not to exceed \$11,769; and
  3. Authorize General Manager to finalize negotiations and execute an increase in general liability insurance coverage to \$5 million as required by the Orange County Flood Control District License Agreement, including payment of the initial premium increase in an amount not to exceed \$31,000.

## **INFORMATIONAL ITEMS**

5. STATUS UPDATE REGARDING THE DISTRICT'S IMPERIAL HIGHWAY PROPERTY
6. STATUS UPDATE ON PLANNING OF IN-PLACE REMEDIATION FOR THE PRADO LEAD REMEDIATION PROJECT

7. QUARTERLY REPORT ON LEASES AND PERMITS/LICENSES FOR THE PERIOD ENDING SEPTEMBER 30, 2024

**CHAIR DIRECTION AS TO ITEMS TO AGENDIZE AS MATTERS FOR CONSIDERATION AT THE NOVEMBER 6 BOARD MEETING**

**DIRECTORS' COMMENTS/REPORTS**

**GENERAL MANAGER'S COMMENTS/REPORTS**

**ADJOURNMENT**

## PROPERTY MANAGEMENT COMMITTEE

### Committee Members

Steve Sheldon - Chair  
Natalie Meeks - Vice Chair  
Denis Bilodeau  
Bruce Whitaker  
Roger Yoh

### Alternates

Valerie Amezcua - Alternate 1  
Dina Nguyen - Alternate 2  
Van Tran - Alternate 3  
Erik Weigand - Alternate 4  
Cathy Green - Alternate 5

In accordance with the requirements of California Government Code Section 54954.2, this agenda has been posted at the guard shack entrance and in the main lobby of the Orange County Water District, 18700 Ward Street, Fountain Valley, CA and on the OCWD website not less than 72 hours prior to the meeting date and time above. All written materials relating to each agenda item are available for public inspection in the office of the District Secretary. Backup material for the Agenda is available at the District offices for public review and can be viewed online at the District's website: [www.ocwd.com](http://www.ocwd.com)

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the District Secretary at (714) 378-3234, by email at [cfuller@ocwd.com](mailto:cfuller@ocwd.com), by fax at (714) 378-3373. Notification 24 hours prior to the meeting will enable District staff to make reasonable arrangements to assure accessibility to the meeting.

As a general rule, agenda reports or other written documentation has been prepared or organized with respect to each item of business listed on the agenda, and can be reviewed at [www.ocwd.com](http://www.ocwd.com). Copies of these materials and other disclosable public records distributed to all or a majority of the members of the Board of Directors in connection with an open session agenda item are also on file with and available for inspection at the Office of the District Secretary, 18700 Ward Street, Fountain Valley, California, during regular business hours, 8:00 am to 5:00 pm, Monday through Friday. If such writings are distributed to members of the Board of Directors on the day of a Board meeting, the writings will be available at the entrance to the Board of Directors meeting room at the Orange County Water District office.



MINUTES OF THE PROPERTY MANAGEMENT COMMITTEE MEETING  
WITH BOARD OF DIRECTORS  
ORANGE COUNTY WATER DISTRICT  
September 20, 2024 @ 12:00 p.m.

Director Sheldon called the Property Management Committee meeting to order in Conference Room C-2. Members of the public also participated via Zoom. The Secretary called the roll and reported a quorum as follows:

Committee

Steve Sheldon  
Natalie Meeks  
Denis Bilodeau (absent)  
Bruce Whitaker  
Roger Yoh (absent)

Alternates

Valerie Amezcua (absent)  
Dina Nguyen  
Van Tran  
Erik Weigand  
Cathy Green (absent)

OCWD Staff

John Kennedy, General Manager  
Bruce Dosier, Director of IS/Property Management  
Daniel Park, Property Manager  
Chris Olsen, Executive Director of Engineering  
Jason Dadakis, Executive Director Water Quality & Technical Resources  
Mehul Patel, Executive Director of Operations  
Jeremy Jungreis, General Counsel  
Leticia Villarreal, Assistant District Secretary

**CONSENT CALENDAR (ITEMS NO. 1)**

The Consent Calendar was approved upon motion by Director Whitaker, seconded by Director Sheldon, and carried [5-0] as follows:

***Ayes: Sheldon, Meeks, Whitaker, Nguyen, Tran***

1. Meeting Minutes

**The Minutes of the Property Management Committee meeting held August 23, 2024 were approved as presented.**

**MATTER FOR CONSIDERATION**

2. Agreement with Voit Real Estate Services for District's Imperial Highway Project

Bruce Dosier, Director of IS/Property Management recalled that at the previous Property Management meeting, the Committee directed Staff to talk to Voit about putting together an agreement to work with the District in talking and meeting with other Brokers about potential properties along La Palma Avenue that could be used for bridge construction across the river to the Imperial Highway property. He stated Voit would evaluate the potential access options under a 6-month agreement subject to review and approval by legal counsel.

**Upon motion by Director Meeks, seconded by Director Whitaker and carried [5-0], the Committee recommended that the Board at its October 2 Board meeting: Approve and authorize execution of an Agreement with Voit Real Estate Services, exploring bridge access options to the District's Imperial Highway Property for 6-month term, at a rate of \$450 per hour, with a total cost not to exceed \$7,500, subject to legal counsel review and approval.**

## **INFORMATIONAL ITEMS**

### 3. 2024 Summary of the Surplus Land Act and Recent Amendments Thereto

Jessica Sanders from Rutan & Tucker provided a summary of the Surplus Land Act (SLA) as it currently applies to the District, noting that the Act has been significantly expanded in recent years. She explained to the Committee that the SLA requires local agencies to follow specific procedures when selling or leasing publicly owned land more than 15 years. She illuminated that virtually all OCWD sales and leases of real property will likely fall in the Agency's Use exclusion and will have a shorter process.

### 4. Update on Planning of In-Place Remediation for the Prado Lead Remediation Project

Mr. Dosier reminded the Committee that staff had reported last month that OCWD was in discussions with Carlson Strategic Land Solutions (Carlson) and AECOM to obtain quotes for assessing the property and identifying the least impactful location for the CAMU (Corrective Action Management Unit). He reported Carlson was less than AECOM. He shared OCWD would move forward with working with Carlson on this item. Senior Planner Kevin O'Toole will be coordinating with Carlson on their report regarding the property.

## **CHAIR DIRECTION AS TO ITEMS TO AGENDIZE AS MATTERS FOR CONSIDERATION AT THE OCTOBER 2 BOARD MEETING**

It was agreed to place Items No. 2 on the on the Consent Calendar at the October 2 Board meeting.

## **ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned at 12:26 p.m.

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Steve Sheldon, Chair



## AGENDA ITEM SUBMITTAL

<b>Meeting Date:</b> October 25, 2024	<b>Budgeted:</b> N/A
<b>To:</b> Property Management Committee Board of Directors	<b>Budget Amount:</b> N/A
<b>From:</b> John Kennedy	<b>Revenue Estimate:</b> \$1,148 fee
<b>Staff Contact:</b> B. Dosier/D. Park	<b>Funding Source:</b> N/A
	<b>Program/Line Item No.</b> N/A
	<b>General Counsel Approval:</b> Yes
	<b>Engineers/Feasibility Report:</b> N/A
	<b>CEQA Compliance:</b> N/A

**SUBJECT: LICENSE AGREEMENT WEST OF HIGHWAY 71/PRADO BASIN**

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### SUMMARY

The District owns property located west of Highway 71 (Corona Expressway), approximately 2 miles north of the 91 Freeway in unincorporated Riverside County (APN 101-050-010). Neighboring property owners, Mr. Rene Banuelos and Mr. Carlos Sanchez have requested a License Agreement to use the District's road through the entry gate on Highway 71, allowing access to their landlocked properties. They have requested a 5-year term for the agreement.

Attachment: License Agreement with Rene Banuelos and Carlos Sanchez

### RECOMMENDATION

Agendize for November 6 Board meeting: Approve and authorize execution of License Agreements with Rene Banuelos and Carlos Sanchez for access across District's Property, located west of Highway 71, for a five-year period, with a License Fee of \$1,148.

### DISCUSSION/ANALYSIS

On June 19, 1985, the Board, per Resolution No. 85-6-70, authorized the issuance of permits to allow access across the District's West of Highway 71 property. These permits were granted to address the access needs of adjacent landowners whose properties were landlocked, ensuring control access through the Highway 71 gate, acknowledgement of District ownership and to prevent future claims of access rights over District land. Additionally, the Permittees were required to indemnify the District against claims, maintain the security of the gate, report trespassing incidents and gate issues to Property Management, and help control access through the gate.

Mr. Rene Banuelos and Mr. Carlos Sanchez, Owners of Fellowship Investments LLC, have acquired neighboring parcels from Aros Property, LLC and have requested access to the District's road to reach their landlocked parcels (APNs 101-404-002, 101-040-003, 101-040-012 and 057-271-05). According to Mr. Banuelos, the parcels were purchased for leisure purposes, and they plan to maintain the parcels as open space. Mr. Banuelos has requested access for himself and co-owner Mr. Carlos Sanchez. District staff have advised that heavy equipment is strictly prohibited on the road.

In July 2024, the Board authorized a 5-year License Agreement with Andre Bello, Albert Bello and Tony Bello; and Scott Donley, Steve Bull and Tim West Robert, granting access to their landlocked properties. As such, staff has no objection to issuing license agreements to Mr. Banuelos and Mr. Sanchez, for the requested five-year term, with a license fee set at \$1,148. Since all license agreements exceeding six months require Board approval, staff is bringing the License Agreements to the Committee for consideration and approval.

## **PRIOR RELEVANT BOARD ACTION**

7/17/2024, R24-7-79, Approve and authorize execution of License Agreements with Andre Bello, Albert Bello and Tony Bello; and Scott Donley, Steve Bull and Tim West for access across District's Property, located west of Highway 71, for a five-year period, each to remit a License Fee of \$1,148

6/15/2022, R22-6-69, Authorizing execution of Amendment One to License Agreement with Robert and Debra Peterson for access across District property west of Highway 71 at Prado Basin

6/7/2017, R17-6-83, Approving License Agreements with Andre Bello, Albert Bello, Tony Bello, Dan DeBusschere and Robert K. and Debra Peterson approved for a five-year period ending June 30, 2022, with a license fee of \$1,148 that permits ingress and egress over and across the West of Highway 71 property in Prado Basin

7/18/12, R12-7-80, License Agreements with Andre Bello, Albert Bello, Tony Bello, Dan DeBusschere and Robert K. and Debra Peterson approved for a five-year period ending June 30, 2017, with a license fee of \$550 that permits ingress and egress over and across the West of Highway 71 property in Prado Basin;

6/6/12, M12-88, Direct staff to restructure the Prado Basin Key Access License Agreement with Andre Bello, and to provide 30-day extensions to the current Key Access License Agreements with Dan DeBusschere; Andre Bello, Albert Bello, and Tony Bello; and Robert K. and Debra Peterson;

2/15/12, M12-00, Termination of Prado Key Access License Agreements program and direct staff to send a 30 days Notice of Termination to all Prado Key Access Licensees;

9/7/11, M11-143, Direct staff to transmit letters to the Prado West of Highway 71 Access Road and Gate Licensees suspected of violating the terms of their License Agreement advising that the District intends to take action to protect itself against trespassing, and requesting that the Licensee appear before the Property Management Committee to discuss the issue;

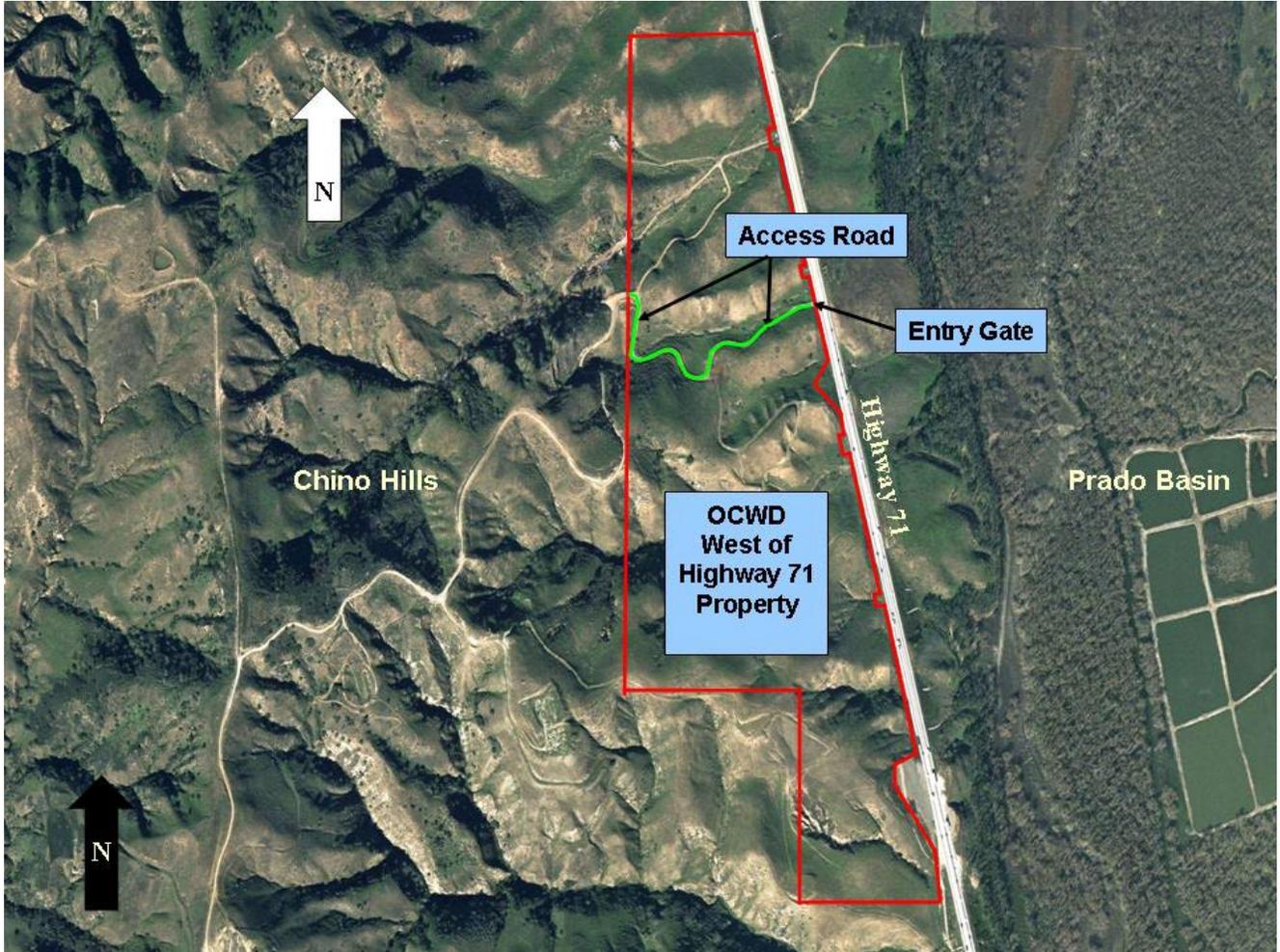
6/2/10, R10-6-85, Approving Prado Key Access License Agreements – West of Highway 71 at Prado Basin;

R92-12-213, 12/16/92, Determining necessity for charge of fee for issuance of Right-of-Entry Permits (Licenses) and adopting fee Schedule;

6/19/85, R85-6-70, Approving and authorizing execution and issuance of permits for access over District Prado property.

## Location Map

### LICENSE AGREEMENTS WEST OF HIGHWAY 71/PRADO BASIN



# LICENSE AGREEMENT

## (West of Highway 71 Property)

This License Agreement (“License”) is made and entered into as of November 6, 2024 by and between the **ORANGE COUNTY WATER DISTRICT**, a political subdivision of the State of California organized under Chapter 924 of the Statutes of 1933, as amended (“OCWD”), and **RENE BANUELOS AND CARLOS SANCHEZ** (collectively “Licensee”).

### PART I

#### FUNDAMENTAL LICENSE TERMS

**1.1 License:** OCWD hereby issues to Licensee a License to enter upon the following real property owned by OCWD, for the purpose or activity specified in Paragraph 1.1.2:

**1.1.1 Licensed Property:** Entry gate and access road located on the West of Highway 71 property at Prado Basin, as shown on the map included as Part IV attached hereto and incorporated herein by this reference (“Premises”).

**1.1.2. Use of Premises:** For the term of this License and any extension or renewals thereof, Licensee shall use the Premises solely and exclusively for the following purpose(s) or activity(ies): to allow ingress and egress across OCWD property to the property as described below (“Licensee Property”). The Licensee must personally escort all invitees of Licensee across the Premises. The Licensee Property is identified as County of San Bernardino and Riverside, Assessor Parcel Nos. 101-040-002, 101-040-003, 101-040-012, and 057-271-05.

**1.2 Term:** This License shall commence on **November 6, 2024** (“Commencement Date”) and shall continue to and terminate at 11:59 p.m. local time on **November 6, 2029** (“Expiration Date”). This License and the Licensee’s rights hereunder may not be extended beyond the Expiration Date unless such extension is set forth in writing and signed by both OCWD and the Licensee. Notwithstanding the foregoing or any other provision of this License, either OCWD’s General Manager or his designee or Licensee may in his or her sole and absolute discretion terminate this License with or without cause, or for any reason, at any time, by giving the other party a thirty (30) days written notice of termination.

**BY PLACING ITS INITIALS HERE, LICENSEE ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE PROVISIONS OF THIS LICENSE THAT ALLOW OCWD TO TERMINATE THIS LICENSE AT ANY TIME WITH OR WITHOUT CAUSE AS SET FORTH HEREINABOVE.**

Licensee: \_\_\_\_\_

**1.3 License Consideration:** As consideration for the issuance of this License, Licensee shall pay to OCWD the sum of **ONE THOUSAND ONE HUNDRED FORTY-EIGHT**

**DOLLARS \$1,148.00**), as one lump sum payment (“License Fee”) in accordance with Part II (General Provisions).

**1.4 Notices and Payments:** All payments, notices and other writings required to be delivered under this License to either party shall be delivered in accordance with the provisions of Part II (“General Provisions”), to OCWD at the address set forth in Part II, and to Licensee at the address set forth in this Part I.

**1.5 Attachments:** This License incorporates by reference the following Attachments to this License:

- Part I: Fundamental License Terms
- Part II: General License Provisions
- Part III: Special License Provisions
- Part IV: Map of the Premises

**1.6 Integration:** This License represents the entire understanding of OCWD and Licensee as to the License and all other matters contained herein. No prior oral or written understanding shall be of any force or effect with regard to those matters covered by this License. This License supersedes and cancels any and all previous negotiations, arrangements, agreements or understandings, if any, between the parties, and none shall be used to interpret this License.

**IN WITNESS WHEREOF**, the parties have executed and entered into this License as of the date first set forth above.

<p><b>ORANGE COUNTY WATER DISTRICT</b>, a political subdivision of the State of California organized under Chapter 924 of the Statutes of 1933, as amended</p> <p>By: _____ Cathy Green, President</p> <p>By: _____ John Kennedy, General Manager</p> <p><b>APPROVED AS TO FORM: RUTAN &amp; TUCKER, LLP.</b></p> <p>By: _____ General Counsel, Orange County Water District</p>	<p><b>RENE BANUELOS AND CARLOS SANCHEZ</b></p> <p>By: _____ Rene Banuelos</p> <p>By: _____ Carlos Sanchez</p> <p><b>Licensee Information:</b></p> <p>Address for Notices:</p> <p>Attn: Rene Banuelos Telephone Number: 323-770-7700 Email Address: <a href="mailto:fellowshipinvestmentsllc@gmail.com">fellowshipinvestmentsllc@gmail.com</a></p>
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**PART II**  
**GENERAL LICENSE PROVISIONS**

2.1 Payment of License Fee

2.1.1 Transmittal of Payments: Licensee shall make all License Fee payments, and pay all other sums due under this License, in lawful money of the United States, by check payable to "ORANGE COUNTY WATER DISTRICT," and shall personally deliver or mail all payments without any notice or demand to OCWD at the address set forth in Paragraph 2.8.1 below. Licensee assumes all risk of loss or late payment if any payment is made by mail.

2.1.2 No Offsets: All License Fees and other sums due under this License shall be paid without offset or deduction, and shall be deemed payments on account. Neither the payment by Licensee nor the acceptance by OCWD of any License Fee or other sum in an amount which is less than the amount due and payable pursuant to this License, nor the issuance of a monthly statement showing as due and payable an amount less than is properly due and payable pursuant to the terms of this License, shall constitute an agreement by OCWD modifying this License or a waiver of OCWD's right to receive all sums provided for in this License. No endorsement or statement on any check or any letter accompanying any check or payment shall be deemed an accord or satisfaction, and OCWD shall accept all checks and payments from Licensee without prejudice to OCWD's right to recover the balance of the amount due or to pursue any other remedy in this License or otherwise provided by law.

2.2 Charges for Payment of License Fee

2.2.1 If any payment of any License Fee or any other sum due OCWD is not received by OCWD within ten (10) days after the due date, Licensee shall be deemed delinquent in its License Fee payment and a late charge of one and one-half percent (1.5%) of the delinquent amount, plus the sum of One Hundred Dollars (\$100.00), shall become immediately due and payable to OCWD. An additional charge of one and one-half percent (1.5%) of such delinquent License Fee payment (excluding late charges) shall be added for each additional calendar month (or portion thereof) that the delinquent sum remains unpaid.

2.2.2 Licensee and OCWD hereby acknowledge and agree that such late charges do not represent and shall not be deemed to be an interest payment, but that such late charges represent a fair and reasonable estimate of the costs and expenses that OCWD will incur by reason of Licensee's late payment.

2.2.3 Acceptance by OCWD of any delinquent License Fee payment or late charge shall in no way constitute a waiver of Licensee's default with respect to such overdue and

delinquent payment, or in any way impair, prevent or restrict OCWD from exercising any of its rights or remedies set forth in this License or otherwise provided at law.

## 2.3 Use of Premises

2.3.1 Conditions of Use: For and during the term of this License, and any extension or renewal thereof, Licensee's use of the Premises shall be subject to the following conditions, covenants and restrictions:

2.3.1.1 Except as provided in this License, the Premises shall be used only for the purposes specified in Paragraph 1.1.2 above, and the Premises shall not be used for any other use or purpose whatsoever, without the prior written consent of OCWD.

2.3.1.2 Licensee shall not cause, permit or suffer any "hazardous material," "hazardous waste" or "hazardous chemicals" as those terms are used in CERCLA (42 U.S.C. § 9601(14)) or SARA (42 U.S.C. § 110211(e)) or any similar Federal, State, or local law, statute, ordinance, regulation or order, or otherwise determined by OCWD, to be brought upon, left, used or abandoned on the Premises.

2.3.1.3 Licensee shall not maintain, commit or permit the maintenance or commission of any waste or any nuisance (as defined in California Civil Code section 3479) on the Premises, and Licensee shall not use or permit the use of the Premises for any unlawful purpose.

2.3.1.4 OCWD or its authorized representative shall have the right at all reasonable times to enter upon the Premises and inspect the general condition of the Premises to determine if Licensee is complying with the terms, conditions, requirements and provisions of this License.

2.3.2 Utilities and Services: Licensee shall be solely responsible for obtaining all utility service and for the payment of all utility charges, including but not limited to water and power, supplied to the Premises.

2.3.3 Permits and Approvals: Licensee shall obtain any and all governmental permits, approvals, licenses or other authorizations which may be required in connection with the use of the Premises as set forth in this License. No approval or consent given under this License by OCWD shall affect or limit Licensee's obligations hereunder, nor shall any approvals or consents given by OCWD, in its capacity as a party to this License, be deemed to be approval as to compliance or conformance with any applicable governmental codes, laws, orders, rules or regulations.

2.4 Insurance: Without limiting Licensee's indemnification obligations, Licensee shall not enter or occupy the Premises until Licensee has obtained all of the insurance required herein

from a company or companies acceptable to OCWD, and Licensee shall maintain all such insurance in full force and effect at all times during the term of this License and any extension or renewal thereof. Insurance shall be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved in writing by OCWD.

2.4.1 Licensee shall take out and maintain the following insurance:

2.4.1.1 Workers' Compensation and Employer's Liability Insurance: Licensee shall cover or insure under the applicable laws relating to workers' compensation insurance all of its employees working on or about the Premises, in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. Licensee shall provide worker's compensation insurance as required by the State of California, with Statutory Limits and employer's liability insurance with limits of the policies not less than One Million Dollars (\$1,000,000) each occurrence, One Million Dollars (\$1,000,000) disease policy limit, and One Million Dollars (\$1,000,000) disease each employee. Such policy of workers compensation insurance shall contain the following separate endorsements:

(a) "Insurer waives all rights of subrogation against the Orange County Water District, its officers, directors, employees, representatives and volunteers."

(b) "This insurance policy shall not be suspended, voided, reduced in coverage or in limits, cancelled, limited, non-renewed or materially changed for any reason by the insurer until thirty (30) days after receipt by the Orange County Water District of a written notice of such cancellation, limitation or reduction of coverage."

2.4.1.2 Commercial General Liability Insurance providing coverage in the following minimum limits:

(a) Combined single limit of Two Million Dollars (\$2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater for Bodily Injury, Personal Injury or Death and Property Damage.

(b) Damage Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage (occurrence Form CG 0001).

(c) If Commercial General Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503 or ISO CG 2504, or insurer's

equivalent endorsement provided to OCWD), or the general aggregate limit shall be twice the required occurrence limit.

2.4.1.3 Comprehensive Automobile Liability Insurance, including owned, non-owned, leased, hired, and borrowed automobiles and similar vehicles, providing the following minimum limits:

(a) Combined single limit of One Million Dollars (\$1,000,000) per occurrence for Bodily Injury, Personal Injury or Death and Property Damage.

(b) Coverage shall be at least as broad as Insurance Services Office (ISO) Business and Auto Coverage (Form CA 0001) covering any auto.

2.4.1.4 Liquor Liability Insurance providing coverage in the following minimum limits:

(a) Combined single limit of Five Million Dollars (\$5,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater for Bodily Injury, Personal Injury or Death and Property Damage.

(b) If a form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503 or ISO CG 2504, or insurer's equivalent endorsement provided to OCWD), or the general aggregate limit shall be twice the required occurrence limit.

2.4.2 Endorsements: The policies of liability insurance provided for in Paragraphs 2.4.1.2, 2.4.1.3, and 2.5.1.4 shall specify that this specific License is insured and that coverage for injury to participants resulting from Licensee's activities is not excluded, and shall be in a form satisfactory to OCWD and contain the following separate endorsements:

(a) "The Orange County Water District, its officers, directors, employees, representatives and volunteers, are declared to be additional insureds on all of the above policies with respect to the operations and activities of the named insured at or from the premises of the Orange County Water District. The coverage shall contain no special limitations on the scope of protection afforded to the Orange County Water District, its officers, directors, employees, representatives and volunteers."

(b) "This insurance policy shall not be suspended, voided, reduced in coverage or in limits, canceled, limited, non-renewed, or materially changed for any reason until thirty (30) days after receipt by the Orange County Water District

of a written notice of such cancellation, limitation, non-renewal or reduction of coverage.”

(c) “This insurance policy is primary insurance and no insurance held or owned by the designated additional insureds shall be called upon or looked to cover a loss under said policy; the Orange County Water District shall not be liable for the payment of premiums or assessments on this policy.”

(d) “Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect the coverage provided to the Orange County Water District, its officers, directors, employees, representatives, or volunteers.”

(e) “This insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.”

2.4.3 Additional Insured Status: The policies of liability insurance provided for in Paragraphs 2.5.1.2, 2.5.1.3 and 2.5.1.4 shall specify that The Orange County Water District, its officers, directors, employees, representatives and volunteers shall be given insured status as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 10 01 and CG 20 37 10 01.

2.4.4 Evidence of Coverage: Licensee shall at the time of the execution of the License present to OCWD the original policies of insurance required by this Paragraph 2.4 or a certificate of the insurance, with separate endorsements (Insurance Services Office Form CG 2026, or equivalent), showing the issuance of such insurance and the additional insured and other provisions and endorsements required herein and copies of all endorsements signed by the insurer’s representative. All policies shall contain the Licensee’s name and location of the Premises on the certificate. At least thirty (30) days prior to the expiration of any such policy, a signed complete certificate of insurance, with all endorsements provided herein, showing that such insurance coverage has been renewed or extended, shall be filed with OCWD. Licensee’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

2.4.5 Review of Coverage: OCWD shall have the right at any time to review the coverage, form, and limits of insurance required under this License. If, in the sole and absolute discretion of OCWD, the insurance provisions in this License do not provide adequate protection for OCWD, OCWD shall have the right to require Licensee to obtain insurance sufficient in coverage, form and limits to provide adequate protection and Licensee shall promptly comply with any such requirement. OCWD's requirements shall not be unreasonable, but shall be adequate in the sole opinion of OCWD to protect

against the kind and extent of risks which may exist at the time a change of insurance is required, or thereafter.

2.4.6 Deductibles: Any and all deductibles must be declared and approved by OCWD prior to execution of this License.

2.4.7 License Contingent Upon Coverage: Notwithstanding any other provision of this License, this License shall be null and void at all times when the above-referenced original policies of insurance or Certificate of Insurance or Renewal Certificates or Endorsements are not on file with OCWD.

## 2.5 Indemnification

2.5.1 OCWD Not Liable: OCWD shall not be liable at any time for any loss, damage or injury whatsoever to the person or property of any person or entity whatsoever, including but not limited to any employee, agent or contractor of Licensee, resulting from or arising out of any act or omission of Licensee or of any person or entity holding under Licensee, or the occupancy or use of the Premises or any part thereof by or under Licensee, or any act or omission in the exercise of any right or the performance of any obligation under this License, or directly or indirectly from any state or condition of the Premises, or any part thereof.

2.5.2 Indemnification: Irrespective of any insurance carried by Licensee for the benefit of OCWD, and notwithstanding any other provision of this License to the contrary, Licensee shall indemnify and hold OCWD, its officers, directors, employees, representatives, agents and volunteers (collectively, "OCWD Indemnitees") harmless from and against any and all actions, claims, demands, judgments, attorney's fees, costs, damages to persons or property, penalties, obligations, expenses or liabilities of any kind in law or in equity, that may be asserted or claimed by any person or entity (including, but not limited to, any employee, agent or contractor of Licensee) in any way arising out of or in connection with this License, the operations carried on by Licensee on the Premises or any lands to which Licensee has access hereunder, or the occupation or use of the Premises by Licensee or any person or entity holding under Licensee (collectively, "Claims"), whether or not there is concurrent active or passive negligence on the part of OCWD, or any OCWD Indemnitee and/or acts for which the OCWD would be held strictly liable, but excluding the sole active negligence and willful misconduct of OCWD, or any OCWD Indemnitee. Licensee shall have the foregoing defense and indemnity obligations notwithstanding whether Licensee's liability is or can be established. Licensee's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by OCWD or any OCWD Indemnitee. In connection therewith:

2.5.2.1 Licensee shall immediately defend and hold OCWD, and the OCWD Indemnitees harmless from any and all Claims, whether caused in whole or in

part by the active or passive negligence of OCWD or any OCWD Indemnitee, and/or acts for which OCWD or any OCWD Indemnitee would be held strictly liable, but excluding any Claim that results from the sole active negligence or willful misconduct of OCWD, or any OCWD Indemnitee; and Licensee shall pay all expenses and costs, including attorneys' fees, incurred in connection therewith.

2.5.2.2 Licensee shall promptly pay any judgment rendered against Licensee or OCWD covering any Claim, and hold and save OCWD and the OCWD Indemnitees harmless therefrom, whether such Claim was caused in whole or in part by OCWD's active or passive negligence, and/or acts for which OCWD would be held strictly liable, but excluding the sole active negligence and willful misconduct of OCWD.

2.5.2.3 In the event OCWD or any OCWD Indemnitee is made a party to any action or proceeding filed or prosecuted for or arising out of or in connection with any Claim, Licensee shall pay to OCWD any and all costs and expenses incurred by OCWD in any such action or proceeding, together with reasonable attorneys' fees; or, at OCWD's option, Licensee shall defend such action or proceeding by retaining counsel reasonably satisfactory to OCWD.

2.5.2.4 All of the indemnity obligations of Licensee under this Paragraph 2.5.2, or as otherwise set forth in this License, shall survive the expiration or earlier termination of this License.

## 2.6 Legal Relations and Responsibilities

2.6.1 Nature of Relationship: OCWD and Licensee understand and agree that the only relationship between them created by this License is that of Licensor and Licensee, and that this License does not create, and shall not be construed to create, any agency, partnership, joint venture, landlord-tenant or other relationship between OCWD and Licensee.

2.6.2 Compliance with Laws: Licensee shall keep itself fully informed of all existing and future state and federal laws and all county and city ordinances and regulations which in any manner affect the activities of Licensee under this License, or the possession or use of the Premises by Licensee, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Licensee shall at all times observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees, and shall protect and indemnify, as required herein, OCWD, its officers, directors, employees and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by Licensee or any person or entity holding under Licensee.

2.6.3 Assignment: The License granted hereby is personal to Licensee and any assignment of said License by Licensee, voluntarily or by operation of law, shall automatically terminate this License, unless Licensee has obtained the prior written consent of OCWD, which may be withheld, in its sole and absolute discretion, for any reason or no reason at all.

2.6.4 Acknowledgment of OCWD's Title: Licensee hereby acknowledges the title of OCWD in and to the Premises, including the real property fixtures and improvements existing or erected thereon, and Licensee hereby covenants and promises never to assail, contest or resist OCWD's title to the Premises.

2.6.5 Liens: Licensee shall maintain the Premises free from and clear of any claims, obligations, liabilities, liens, encumbrances and charges, including but not limited to any claims, liens or charges arising out of or in connection with the furnishing of materials or the performance of labor on the Premises. Licensee further shall protect and indemnify OCWD and the Premises from and hold them, and each of them, harmless against any and all such claims, obligations, liabilities, liens, encumbrances and charges.

2.6.6 Possessory Interest Taxation: A possessory interest subject to property taxation may be created by this License. It is understood and agreed that if such a possessory interest is created, Licensee shall be responsible for the payment of all property taxes levied on such interest, and that OCWD shall have no responsibility therefor.

#### 2.6.7 OCWD's Reservations

2.6.7.1 OCWD hereby reserves the right to grant easements and rights-of-way for pole or tower lines for transmission of electricity, and easements, leases and rights-of-way for telephone, telegraph, telecommunication facilities, gas, water, water well(s), sewer and oil lines, for roads and highways, and for other similar uses over and across the Premises at any location or locations within the Premises. In the event Licensee determines that the granting or exercise of any such easement, lease, or right-of-way significantly interferes with Licensee's possession or use of the Premises, Licensee's only remedy shall be to terminate this License upon thirty (30) days written notice to OCWD. Licensee shall not interfere with any easements or rights-of-way pertaining to or affecting the Premises.

2.6.7.2 OCWD hereby reserves the right to sell, transfer, lease or otherwise dispose of any portion of the Premises at any time. In the event of such sale, transfer, lease or disposition, and notwithstanding any other provision of this License, this License shall, upon the close of escrow or the conveyance of title,

terminate as to the portions of the Premises sold, transferred, leased or disposed of, and Licensee shall release the same from the terms of this License and from any encumbrance which results from this License.

2.6.7.3 OCWD reserves the right unto itself to perform any and all work involved in protecting, replenishing and/or conserving the basin groundwater supply and any other work necessary to the functions or purposes of OCWD, as set forth in the Orange County Water District Act, Chapter 924 of the California Statutes of 1933, as amended, upon any portion or all of the Premises at any time. Such work may be performed without incurring any liability of any nature whatsoever to Licensee, and Licensee hereby releases OCWD from, and covenants not to sue OCWD for, any such liability. OCWD further reserves unto itself the rights of ingress and egress over all or any portion of the Premises.

2.6.8 Waiver of Claims: As a material part of the consideration to OCWD under the License, Licensee hereby waives any and all claims that it may have against OCWD during the term of this License, or any extension or renewal thereof, for any damage to goods, wares and merchandise upon or about the Premises, and for any injury to Licensee, its employees, agents, invitees, or to third parties in or about the Premises, from any cause arising at any time.

2.6.9 Surrender of Possession: At the expiration or termination of this License, whether with or without cause, Licensee shall promptly quit and surrender the Premises in a good state of repair.

2.6.10 Disposition of Abandoned Property: If Licensee abandons or quits the Premises or is dispossessed thereof by process of law or otherwise, title to any personal property left on the Premises for fifteen (15) or more days after such event shall at OCWD's opinion, be deemed to have been abandoned and transferred to OCWD. OCWD shall have the right to remove and dispose of any and all such property without liability therefor to Licensee or to any person or entity claiming under Licensee, and OCWD shall have no duty to account for such property. Licensee agrees to reimburse OCWD for any and all costs associated with OCWD transferring or disposing of Licensee's personal property pursuant to this Section.

2.6.11 Premises "As-Is": Licensee acknowledges that the Premises are being provided to Licensee on an "as-is" basis, and Licensee takes and occupies the Premises without reliance upon any representation by OCWD, or any of its officers, employees, agents or representatives, or any other person, concerning the Premises, their fitness for Licensee's intended use or any other particular purpose of use, their income-producing history, potential or capabilities, their value, or any other promise, representation or inducement not expressly set forth in this License.

2.6.12 No Representation or Warranty Concerning Premises: Licensee acknowledges that neither OCWD, nor any of its officers, employees, agents or representatives, has made any written or oral representation, promise, or warranty, expressed or implied, concerning the Premises, their fitness for Licensee's intended use or any other purpose or use, their income producing history, potential or capabilities, their value, or any other matter not expressly set forth in this License.

2.6.13 Disputes: In the event that any action is commenced by a party to this License against the other to enforce its rights or obligations arising from this License or seeking to interpret this License, the prevailing party in such action, in addition to any other relief and recovery ordered by the court, shall be entitled to recover all statutory costs, plus reasonable attorneys' fees. Should OCWD be named in any suit brought by any third party against Licensee in connection with or in any way arising out of Licensee's occupancy or use of the Premises under this License, Licensee shall pay to OCWD its costs and expenses incurred in such suit, including reasonable attorneys' fees.

2.6.14 Security Measures: Licensee acknowledges that the Premises are licensed to and accepted by Licensee in an "as-is" condition, and that the License Payments and other sums payable from Licensee to OCWD hereunder do not include the cost of security guard or any other security services or measures. Licensee further acknowledges that OCWD makes no representation or warranty, express or implied, regarding the security of the Premises or the need for or propriety of any security measures at the Premises; and Licensee further acknowledges that OCWD shall have no obligation whatsoever to provide guard service or any other security measures. Licensee expressly assumes all responsibility for the protection and security of the Premises, Licensee, its agents, employees, invitees and property within the Premises from any and all acts of any third party.

2.6.15 No Obligation to Third Parties: Execution and issuance of this License shall not be deemed to confer any rights upon, directly, indirectly or by way of subrogation, nor obligate either of the parties hereto to, any person or entity other than OCWD and Licensee.

2.6.16 Waiver: Any waiver by any party of a breach of any provision of this License shall not be deemed a continuing waiver or a waiver of any subsequent breach whether of the same or of another provision hereof.

2.6.17 OCWD's Liability on Termination: Licensee hereby waives all damages or claims for damage that may be caused by any action of OCWD in terminating this License (either with or without cause), or taking possession of the Premises as provided in this License or at law, and Licensee waives all claims for damages to or loss of such

property of Licensee as may be in or upon the Premises upon the termination of this License.

## 2.7 Maintenance and Repair of Premises

2.7.1 Licensee's Obligation to Maintain Premises: Licensee shall at all times during the term of this License, and any extension or renewal thereof, at its sole cost and expense, remove all trash and debris from the Premises. Licensee shall also keep and maintain in good condition and in substantial repair (all to the satisfaction of OCWD in its sole discretion), the Premises and all appurtenances and every part thereof, including improvements of any kind erected, installed or made on or within the Premises. Licensee shall at all times in the maintenance and use of the Premises and the buildings, structures, facilities, improvements and equipment thereon, comply with all laws, ordinances and regulations pertaining thereto, and all conditions and restrictions set forth herein. Licensee expressly agrees to maintain the Premises in a safe, clean, wholesome, and sanitary condition and free of trash and debris, to the complete satisfaction of OCWD and in compliance with all applicable laws.

2.7.2 Licensee's Default of its Maintenance Duties: In the event that Licensee fails, neglects or refuses to remove trash or debris deposited by Licensee or its invitees on the Premises or to maintain or make repairs or replacements as required by this License, OCWD shall notify Licensee in writing of such failure or refusal. Should Licensee fail or refuse to correct such default within ten (10) days of receipt of such written notice from OCWD, OCWD may, but shall not be required to, itself or by contract, undertake the necessary maintenance, repair or replacements; and the cost thereof, including but not limited to the cost of labor, materials and equipment and procurement of insurance, plus an administrative fee in the amount of fifteen percent (15%) of the sum of such costs, shall be paid by Licensee to OCWD within ten (10) days of Licensee's receipt of a statement of such costs from OCWD. Any such maintenance, repair or replacement by or on behalf of OCWD shall not be deemed to be a waiver of Licensee's default under this License, and shall not in any way impair, prevent or restrict OCWD from exercising any of its rights or remedies set forth in this License or otherwise provided at law.

## 2.8 Miscellaneous

2.8.1 Notices: Any notice, payment or instrument required or permitted to be given or delivered by this License may be given or delivered by personal delivery or by depositing the same in any United States mail depository, first class postage prepaid, and addressed as follows:

If to OCWD:

If by mail: ORANGE COUNTY WATER DISTRICT  
P.O. Box 8300  
Fountain Valley, CA 92728-8300  
Attn: Property Management  
Email: [property.manager@ocwd.com](mailto:property.manager@ocwd.com)

If by personal delivery: ORANGE COUNTY WATER DISTRICT  
18700 Ward Street  
Fountain Valley, CA 92708  
Attn: Property Management

If to Licensee: To such name and address set forth for Licensee in Part I of this License,

or such other person or address as either party may direct in writing to the other; provided, however, that such new or different person or address shall not become effective until acknowledged in writing by the party to who directed. Except where service is by personal delivery or by registered or certified mail, return receipt requested, service of any instrument or writing shall be deemed completed forty-eight (48) hours after deposit in a United States mail depository.

2.8.2 Warranty of Authority: Each officer of OCWD and Licensee affixing his or her signature to this License warrants and represents by such signature that he or she has the full legal authority to bind his or her respective party to all of the terms, conditions and provisions of this License, that his or her respective party has the full legal right, power, capacity and authority to enter into this License and perform all of its provisions and obligations, and that no other approvals or consents are necessary in connection therewith.

2.8.3 Headings: The titles and headings of Sections and Paragraphs of this License, as herein set forth, have been inserted for the sake of convenience only, and are not to be taken, deemed or construed to be any part of the terms, covenants or conditions of this License, or to control, limit or modify any of the terms, covenants or conditions hereof.

2.8.4 Time of Essence: Time is of the essence of this License. Failure to comply with any requirement, including but not limited to any time requirement, of this License shall constitute a material breach of this License.

2.8.5 Construction and Amendment: This License shall be construed, interpreted, governed and enforced in all respects according to the laws of the State of California and as if drafted by both OCWD and Licensee. No amendment, change or modification of this document shall be valid unless in writing, stating that it amends, changes or modifies this License, and signed by all of the parties hereto.

2.8.6 Successors: Subject to the provisions of Paragraph 2.6.3 above, this License, and all of the terms, conditions and provisions herein, shall inure to the benefit of, and be binding upon, OCWD, Licensee, and their respective successors and assigns.

2.8.7 Re-Entry: No entry or re-entry into the Premises by OCWD shall be construed as an election to terminate this License, unless prior thereto or concurrently therewith written notice of intent to terminate is given by OCWD to Licensee. OCWD's entry into possession of the Premises without having elected to terminate shall not prevent OCWD from making such an election and giving Licensee notice thereof.

2.8.8 Partial Invalidity: If any term, covenant, condition or provision of this License is held by a court of competent jurisdiction to be invalid, void, illegal, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way affect, impair, or invalidate any other term, covenant, condition or provision contained in this License.

2.8.9 Further Assurances: Each of the parties hereto shall execute and deliver any and all additional papers, documents and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties hereto.

2.8.10 Precedence: In the event of any conflict between Parts of this License, Part I shall prevail over Parts II, III and IV, and Part III shall prevail over Part II.

**[END GENERAL LICENSE PROVISIONS]**

## PART III

### SPECIAL LICENSE PROVISIONS

3.1 Additional Conditions of Use: The following are added to Paragraph 2.3.1, as additional conditions to the use of the Premises:

2.3.1.5 Entry Gate Access. Licensee shall provide OCWD's Property Manager with a lock and key for the West of Highway 71 entry gate ("Entry Gate") by delivering said lock and key to OCWD's Property Manager, who will place the lock on the Entry Gate. OCWD reserves the right to remove unidentified locks without notice.

Pipe Gate Access. Licensee shall provide OCWD's Property Manager with a lock and key for the West of Highway 71 pipe gate ("Pipe Gate") by delivering said lock and key to OCWD's Property Manager, who will place the lock on the Pipe Gate.

Licensee shall keep both gates closed and locked at all times to prevent animals from straying on to the highway and to prevent trespassing on OCWD Property.

2.3.1.6 Licensee shall report any problems with the Entry Gate and Pipe Gate, locks or suspected trespassers to the OCWD's Property Manager so that all parties may use the Premises in a safe and organized manner. Licensee shall use the keys for each gate only for the use specified in Section 1.1 (License), Paragraph 1.1.2 (Use of Premises) and Licensee shall not duplicate or give either key to any other person without the prior written approval of OCWD, which OCWD may withhold in its sole and absolute discretion.

2.3.1.7 Licensee shall not provide access to any person or entity that is not a party to this License. Licensee further agrees that no firearms, livestock, motorcycles, bees, vehicles or other property of Licensee are to be used or left on the Premises, except vehicles or motorcycles owned or leased by Licensee may pass over the Premises to access the Licensee Property. Vehicles left unattended on the Premises are considered abandoned and may be towed at the owner's expense and will be deemed a breach of this License.

2.3.1.8. OCWD's General Manager or his designee may immediately terminate this License Agreement, change or remove locks, install security gates, restrict access or take other any action as deemed appropriate by OCWD's General Manager or his designee in his or her sole and absolute discretion if any Licensee (or any invitee of Licensee) fails to comply fully and completely with each and all of the terms and conditions of this License Agreement.

**BY PLACING ITS INITIALS HERE, LICENSEE ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE PROVISIONS OF THIS LICENSE THAT ALLOW OCWD TO TERMINATE THIS LICENSE AT ANY TIME WITH OR WITHOUT CAUSE AS SET FORTH HEREINABOVE.**

**Licensee:** \_\_\_\_\_

2.3.1.9 Licensee acknowledges that the access roads on the Premises are dirt roads that are not maintained and are intended for light traffic use only; no heavy or wide loads may access the Premises. Vehicles utilizing the access roads must not exceed a gross vehicle weight that could jeopardize the safety and structural integrity of the roadway. The movement of heavy equipment over or across the Premises is expressly prohibited. Licensee passes over and along said access road at Licensee's own risk and hereby waives and releases any claim against OCWD, holding it harmless from any liability for personal injury or property damage that may result from Licensee or any Licensee's invitee's use of the Premises or access road as stated in this License.

2.3.1.10 Questions concerning this License or access to the Premises shall be directed to OCWD's Property Management Department by calling (714) 378-3265.

2.3.1.11 Licensee shall not alter the Premises, grade or scrape the access road, or disturb the Premises in any manner or construct or install any improvement or vegetation on the Premises, or deposit any trash or debris on the Premises.

3.2 Utilities and Services. Paragraph 2.3.2 is hereby deleted from this License so long as Licensee has no need for utility service.

3.3 Insurance. The following subparagraphs are revised as follows:

2.4.1.2 Public Liability Insurance: In lieu of this License requirement in Paragraph 2.4.1.2, Licensee may substitute Public Liability Insurance for Commercial General Liability Insurance providing coverage in the amount acceptable to OCWD's Risk Manager.

2.4.1.3 Business Automobile Liability Insurance: In lieu of the coverage requirement in Paragraph 2.4.1.3 as set forth in Part II above, Licensee shall provide the Orange County Water District with an Endorsement of Licensee's Business Automobile Liability Insurance showing the Orange County Water District, its officers, directors, employees and agents as additional insureds in respects to the Premises and the insurance coverage, in a form and coverage acceptable to OCWD's Risk Manager.

2.4.1.4 Liquor Liability Insurance: is hereby deleted in its entirety from the License.

3.4 Legal Relations and Responsibilities: The following is added to Section 2.6, as an additional condition:

2.6.18 Prior Agreements: OCWD and Licensee mutually agree that this License shall terminate and supersede any prior permit(s), licenses(s) and/or agreement(s) between the parties hereto covering all or any portion of the Premises on and from the Commencement Date of this License.

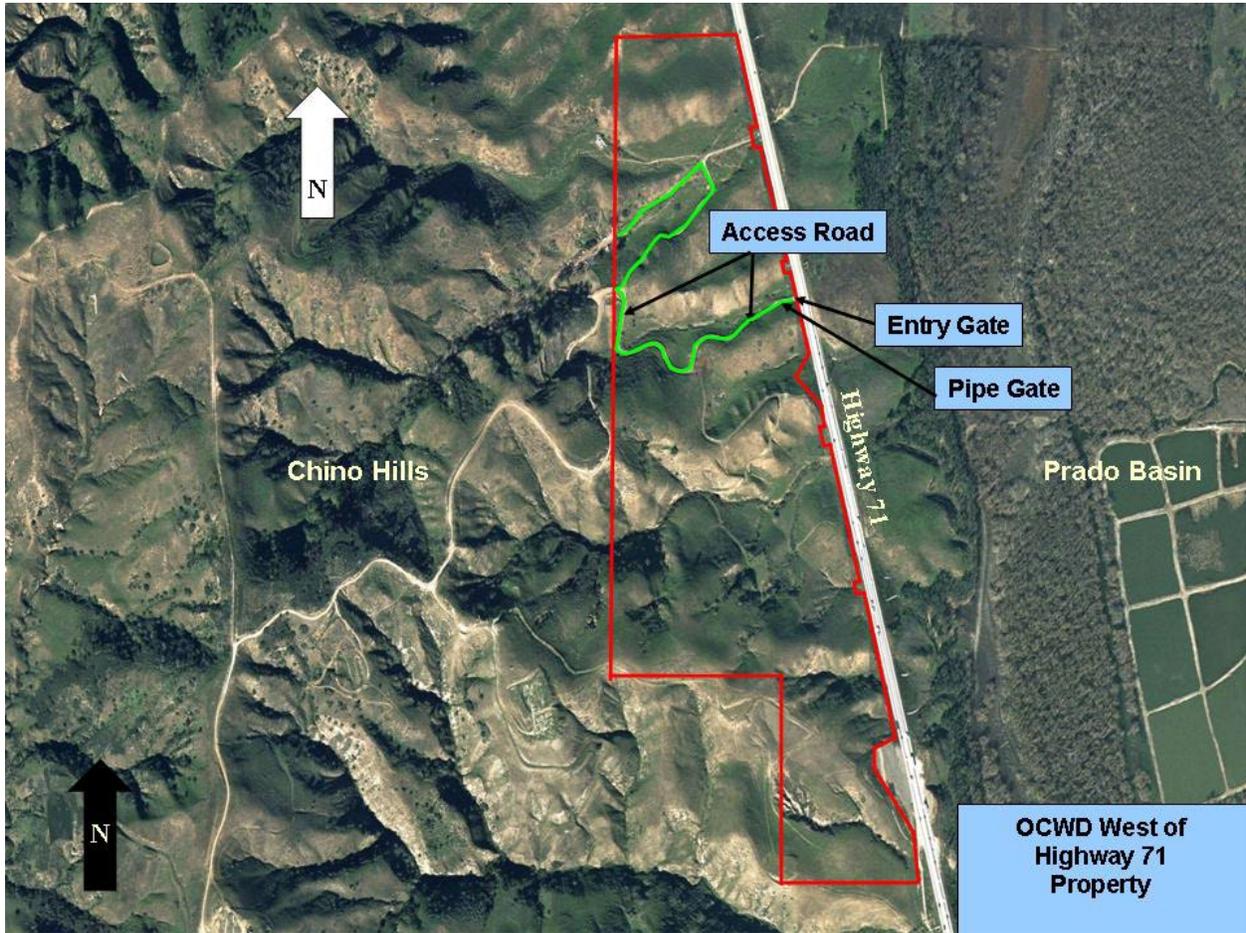
2.6.19 Easements: Licensee acknowledges that this License creates no easement or other property rights, express, implied, by necessity or prescription and Licensee, its successors and assigns agree never to claim or pursue any easement or other property rights with respect to the Premises.

3.5 Maintenance and Repair of Premises: Paragraph 2.7 (Maintenance and Repair of Premises), Subparagraphs 2.7.1 (Licensee's Obligation to Maintain Premises) and 2.7.2 (Licensee's Default of its Maintenance Duties) are hereby deleted from this License.

**[END SPECIAL LICENSE PROVISIONS]**

**PART IV**

[Map of the Premises]





## AGENDA ITEM SUBMITTAL

**Meeting Date:** October 25, 2024

**To:** Property Management Committee/  
Board of Directors

**From:** John Kennedy

**Staff Contact:** B. Dosier/D. Park/B. Smith

**Budgeted:** N/A

**Budgeted Amount:** N/A

**Cost Estimate:** N/A

**Funding Source:** N/A

**Program/ Line Item No.** N/A

**General Counsel Approval:** N/A

**Engineers/Feasibility Report:** N/A

**CEQA Compliance:** N/A

**Subject: APPROVAL REQUEST FOR REPAIR AND IMPROVEMENTS OF ORANGE COUNTY FLOOD CONTROL FACILITIES AT SANTIAGO BASIN**

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### SUMMARY

On June 20, 1990, the District granted a perpetual easement deed to the Orange County Flood Control District (County) for the construction and maintenance of flood control facilities on District land at Villa Park Road in the City of Orange. The County has notified District staff of its plans to repair and improve these facilities. As the grant deed requires written approval for any alterations to the easement area, the County has formally requested authorization for the proposed work.

### RECOMMENDATION

Agendize for November 6 Board meeting: Authorize written approval for the Orange Flood Control District to conduct repairs and improvements to their flood control facilities on District property located at Villa Park Road, City of Orange, in accordance with the Easement Deed granted on June 20, 1990.

### BACKGROUND/ANALYSIS

On June 20, 1990, a perpetual easement was granted to the County permitting the construction and maintenance of flood control facilities on District land located at Villa Park Road in Orange. This easement encompasses the installation of essential flood control structures, including a slope buttress and drainage systems, which the County uses to channel stormwater flow from Santiago Creek into the District's Santiago Recharge Basins – specifically Smith and Blue Diamond Basins.

The County has initiated plans to improve the infrastructure within the easement area. The proposed repairs and improvements include replacing the existing surface-mounted 30-inch corrugated metal pipe (CMP) on the south side of the easement area and repairing the eroded slope adjacent to the CMP. Additionally, at the northeast corner of the easement area, the County plans to repair the damaged storm drain, trim the exposed end, and fill the eroded slope with riprap to prevent further erosion.

According to the Grant Deed, any improvements or alterations to the easement area require written approval from the District. Accordingly, the County has formally requested approval for this work. District staff has reviewed the repair plans and supports the proposed repairs and improvements. The work is not expected to negatively impact operations of the District's recharge facilities.

**PRIOR RELEVANT BOARD ACTION(S)**

06/20/90, R90-6-137, Approving and authorizing Easement Grant Deed to Orange County Flood Control District for Villa park Road flood protection facilities.

# LOCATION MAP



G:\Projects\Property\Map\ROW\_Mapping.aprx (10/15/2024)



## AGENDA ITEM SUBMITTAL

**Meeting Date:** October 25, 2024

**To:** Property Management Committee /  
Board of Directors

**From:** John Kennedy

**Staff Contact:** B. Dosier/D. Park/R. Herndon

**Budgeted:** No

**Budgeted Amount:** No

**Cost Estimate:** \$58,800

**Funding Source:** Reserves

**Program/Line-Item No.:** 1050.56026.9932

**General Counsel Approval:** Yes

**Engineers/Feasibility Report:** N/A

**CEQA Compliance:** N/A

**Subject: LICENSE AGREEMENT WITH ORANGE COUNTY FLOOD CONTROL  
DISTRICT FOR ALAMITOS SEAWATER BARRIER PROJECT**

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### SUMMARY

In 1965, the Orange County Water District (OCWD) and the Los Angeles County Flood Control District established the Alamitos Seawater Barrier to prevent seawater intrusion into local groundwater basins. A portion of the Alamitos Barrier facilities, which consist of monitoring wells, injection wells, and pipelines, is within Orange County Flood Control District's (County) right-of-way, and its operation and maintenance is allowed under several permits issued by the County. The County has now proposed consolidating existing permits into a new 10-year License Agreement with an annual fee and additional insurance requirements.

Attachment: Draft License Agreement

### RECOMMENDATION

Agendize for November 6 Board meeting:

1. Authorize General Manager to finalize negotiations and execute a License Agreement with Orange County Flood Control District for the Alamitos Barrier Project facilities for a ten (10) year term with an initial annual use fee not to exceed \$16,000 with an increase of \$200 annually; and
2. Authorize General Manager to finalize negotiations and execute a pollution liability insurance policy with \$1 million coverage as required by the Orange County Flood Control District License Agreement for an initial term of 3 years, including payment of the initial premium in an amount not to exceed \$11,769; and
3. Authorize General Manager to finalize negotiations and execute an increase in general liability insurance coverage to \$5 million as required by the Orange County Flood Control District License Agreement, including payment of the initial premium increase in an amount not to exceed \$31,000.

### BACKGROUND/ANALYSIS

In 1964, OCWD entered into an "Agreement for the Cooperative Implementation of Alamitos Barrier Project" (Cooperative Agreement), with the Los Angeles County Flood Control District (now part of the Los Angeles County Department of Public Works - LACPW) to design, construct, operate and maintain the Alamitos Seawater Barrier. This joint project aims to protect the Central Basin of Los Angeles County and the Orange County Groundwater Basin from seawater intrusion through the Alamitos Gap. LACPW and OCWD jointly operate and maintain

the Alamitos Seawater Barrier facilities, which include 58 injection wells, 177 active monitoring well sites, and 33,000 feet of pipeline.

Of the Alamitos Seawater Barrier facilities, 19 injection wells and 9 monitoring wells are located within the County's right-of-way in the City of Seal Beach. This area serves as the maintenance road and levee on the west side of the Los Alamitos Channel, extending from 2<sup>nd</sup> Street to the City of Los Angeles' Department of Water & Power Hayes Generation Plant. From 1966-2017, the County issued the following permits to OCWD to install, operate and maintain the facilities:

<u>Permit No.</u>	<u>Effective Date</u>
07766	October 11, 1966
19810918 (formerly 81-00551)	September 18, 1981
19920716 (formerly 91-00677-FE)	July 16, 1992
19921106 (formerly 91-00677-FE Rider 1)	November 6, 1992
2014-0007	December 1, 2015
2016-00407	June 28, 2016
2016-00398	January 11, 2017

As a condition of issuing permit 2014-0007, the County required that the existing permits must be consolidated under a License Agreement (License) with an annual use fee. Under the County's fee schedule, the initial annual fee was \$22,090, calculated by charging each individual well on the licensed premises. However, since some well configurations occur in clusters of two or three wells, staff proposed basing the fee schedule on a combination of per well cluster and standalone wells. Using this approach, the County agreed to a lowered annual fee of \$16,000, with annual \$200 increases.

Additionally, under the Cooperative Agreement with LACPW, OCWD carries separate general liability insurance of \$2 million on the Alamitos Seawater Barrier facilities. However, as part of the new License, the general liability insurance requirement has increased to \$5 million, and an additional pollution liability insurance of \$1 million is now required. As a result, staff requested quotes for the additional insurance requirements. OCWD's current liability insurance provider quoted \$31,000 per year for the additional \$3 million coverage. Among the pollution insurance quotes received, The Hartford offered the most competitive rate of \$11,769 for 3 years of \$1 million coverage.

Due to the importance of the Alamitos Seawater Barrier Project, staff recommends authorizing the General Manager to finalize negotiations and execute the License Agreement with the County for the operation, maintenance, and repair of the Alamitos Seawater Barrier facilities, for an annual fee of \$16,000. Additionally, as a requirement of the License, staff also recommends authorizing the General Manager to finalize negotiations and execute an increase in general liability coverage to \$5 million for \$31,000 per year, as well as \$1 million pollution coverage for 3 years at \$11,769.

## **PRIOR RELEVANT BOARD ACTIONS**

01/17/24, M24-6 – Approve the 2024-25 O&M budget for the Alamitos Barrier in the amount of \$3,170,000 and authorize OCWD's share in the amount not to exceed \$1,263,000, payable to LACPW.

12/21/22, M22-133 – Approve the 2023-24 O&M budget for the Alamitos Barrier in the amount of \$2,980,000 and authorize OCWD's share in the amount not to exceed \$1,186,500, payable to LACPW.

12/15/21, M21-128 – Approve the 2022-23 O&M budget for the Alamitos Barrier in the amount of \$2,910,000 and authorize OCWD's share in the amount not to exceed \$1,156,000, payable to LACPW; and authorize an increase of \$63,266 for the District's share of Alamitos Barrier O&M expenses for FY2020-21, for a revised not-to-exceed total of \$1,049,226 payable to LACPW.

12/16/20, M20-134 – Approve the 2021-22 O&M budget for the Alamitos Barrier in the amount of \$2,878,000 and authorize OCWD's share in the amount not to exceed \$1,116,000, payable to LACPW.

12/18/19, M19-153 – Approve the 2020-21 O&M budget for the Alamitos Barrier in the amount of \$2,530,000 and authorize the payment of OCWD's share in the amount of \$986,000, payable to LACPW; approve increase in the amount of \$50,500 for the District's share of Alamitos Barrier O&M expenses for FY2018-19, for a revised not-to-exceed total of \$794,500

9/16/15, R15-9-125 - Approve and authorize execution of Amendment to Agreement for Cooperative Implementation of Alamitos Barrier Project, Supplement No. 8 with the Los Angeles County Department of Public Works (LACDPW) to revise the District's annual payment to LACDPW that incorporates a prorated portion of the actual costs of the Alamitos Barrier maintenance yard.

8/5/15, R15-8-105 – Approve and authorize execution of a no fee Sublicense Agreement with the Orange County Flood Control Division, the designated "Sublicensee" to Los Angeles Department of Water and Power (LADWP) License Agreement P-86836, for a period of 3-years to provide alternative access to the Los Alamitos Channel through the adjacent LADWP Haynes Generating Station property during construction of the Alamitos Barrier Improvement Project.

10/15/14, R14-10-139 - Approve and authorize execution of the License Agreement for Construction Staging and Ingress and Egress (P-86836) with the LADWP that includes annual rental costs for a temporary staging area, including two years rental for \$61,336, a refundable Security Deposit of \$32,987, and a refundable Restoration Deposit of \$32,987; and Authorize issuance of Services Agreement to CCR for an amount not to exceed \$30,000 for community outreach support on the Alamitos Barrier Improvement Project.

9/17/14, R14-9-126 - Approve and authorize execution of the cost-sharing Agreement for Construction of Additional Facilities for the Alamitos Barrier Project Supplement No. 7 with the LACDPW for the design and construction of injection and monitoring well facilities and payment by LACDPW to OCWD at one-half of the cost of the new facilities located between Points B and C for a total not to exceed \$1,253,000; and Approve an increase to the Alamitos Barrier Improvement Project budget by \$4,693,000 for a revised total capital project budget of \$14,752,000.

2/19/14, R14-2-24 - Approve and authorize execution of Proposition 84 Integrated Regional Water Management Implementation Grant Funding Contract with SAWPA for a reimbursement

amount not to exceed \$1 million for the Alamitos Barrier Improvement Project.

1/15/14, R14-1-4 - Authorize execution of two Easement Deeds for monitoring well and adjacent piezometer OCWD-34V3/OCWD-PZ7, and for piezometer OCWD-PZ9 with the Golden Rain Foundation for the temporary construction easements and 50-year non-exclusive maintenance easements, including compensation of \$11,897, and recordation and acceptance of the deeds.

12/18/13, M13-181 – Authorize general liability insurance policy for the Alamitos Barrier for calendar year 2014 and authorize inclusion of general liability insurance premiums in future Alamitos Barrier annual O&M budgets submitted separately for Board approval.

7/24/13, R13-7-93 - Authorize issuance of an Agreement to Geoscience Support Services, Inc. for an amount not to exceed \$1,126,450 for the Alamitos Barrier Improvement Project construction management services.

5/22/13, R13-5-50 - Authorize issuance of an Agreement to CH2MHill for an amount not to exceed \$207,084 for the design of the Alamitos Barrier Improvement Project; and Authorize issuance of Request for Proposals for construction management services for the Alamitos Barrier Improvement Project.

3/20/13, R13-3-25 – Adopt the resolution Certifying the Final Environmental Impact Report (State Clearinghouse #2012031027) for the Orange County Water District Alamitos Barrier Improvement Project; Approve the Geologists/Engineers Report; Establish project budget of \$10,059,000; Authorize Request for Proposals for engineering design; and Authorize publication of Notice Inviting Bids for Drilling and Well Construction.

7/21/10, M10-95 – Authorize staff to initiate an environmental assessment and Engineer's Report evaluating near-term measures to improve performance of the Alamitos Seawater Barrier.

3/20/13, R13-3-25 –Certifying the final environmental impact report (state clearinghouse 92012031027) for the orange county water district Alamitos Barrier Improvement Project, approving the geologist's/engineer's report and the project, authorizing a request for proposals for engineering design and publication of a notice inviting bids for drilling and well construction (OC Flood permit 2014-0007).

9/16/98, R98-9-141 - Approve and authorize execution of Supplement No. 6 to Alamitos Barrier Project agreement with LACDPW. Provides for the District to construct additional barrier facilities identified in Geologist's Report on Alamitos Barrier Improvement Project Construction Unit 12, consisting of 5 new injection wells, one new extraction well, and 3 new monitoring wells.

3/17/93, R93-3-44 - Authorize execution of Supplement No. 5 to Alamitos Barrier Project agreement with Los Angeles County Flood Control District (now part of Los Angeles County Department of Public Works). Supplement provides for expansion of Alamitos Barrier Joint Management Committee from six to eight members (LACFCD and the District each to appoint one additional member).

12/16/92, R92-12-219 - Ratifying acceptance of rider to Orange County Environmental Management Agency permit for Alamitos Barrier Project. (OC Flood permit 91-00677FE Rider 1)

11/4/92, R92-11-193 – Ratifying acceptance of permit from Orange County Environmental Management Agency required for Alamitos Barrier Project. (OC Flood permit 91-00677-FE)

10/4/89, R89-10-201 - Authorize execution of Supplement No. 4 to Alamitos Barrier Project agreement with Los Angeles County Flood Control District providing for joint participation in design, construction, operation and maintenance of the Alamitos Barrier Project. Provides for the District to design and construct required additional Alamitos Barrier facilities identified in the District's Engineer's Report regarding Seawater Intrusion at the Alamitos Barrier, approved 5/3/89 by Resolution No. 89-5-90.

4/17/85, R85-4-41 - Approve and authorize execution of Alamitos Barrier Hydroelectric Project Site lease and Royalty Agreement with Los Angeles County Flood Control Dist. & Hydro Electric Constr. Inc.; & Supplement No. 3 to Alamitos Barrier Project Agreement to provide for construction of hydroelectric project at Alamitos Barrier.

6/17/81, R81-6-79 – accepting and authorizing execution of permit from Orange County Environmental Management Agency for installation and maintenance of seawater intrusion barrier and related appurtenances within County's Los Alamitos Channel (OC Flood permit 81-00551)

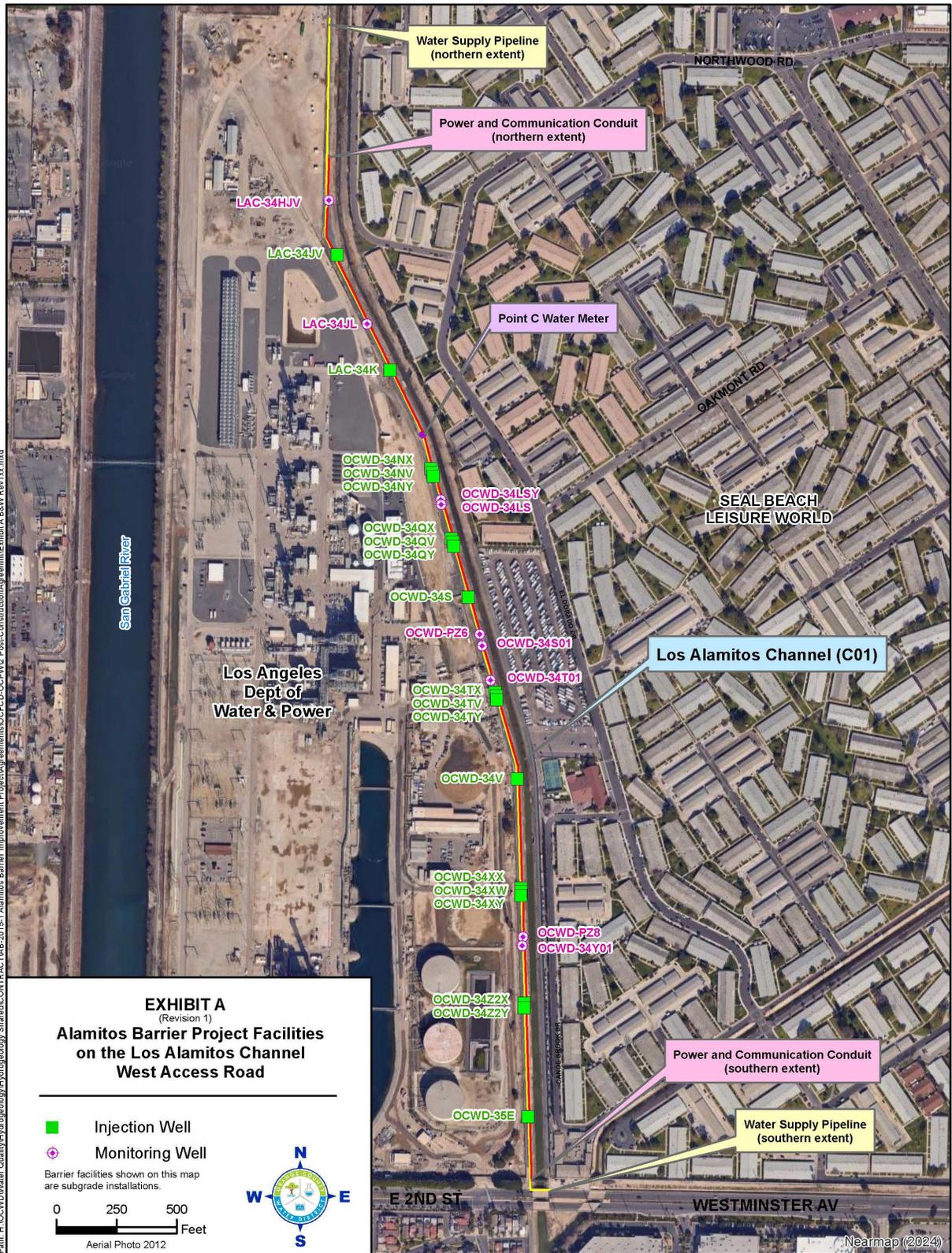
9/25/69, R69-9-96 - Approve Supplement No. 2, Amending the Agreement for Cooperative Implementation of the Alamitos Barrier Project.

4/13/66, R66-29 – Authorize Rights-Of-Way, Licenses and Permits for Units 8, 8a, and 8b, Alamitos Barrier Project. (OC Flood permit 07766)

1/20/65, R891 – Authorize Agreement with LACFCD for Geologic Services on Alamitos Barrier Project (Supplement No. 1).

6/17/64, R831 - Approve Agreement for Cooperative Implementation of the Alamitos Barrier Project.

# Location Map - Alamitos Barrier Facilities on County Right-of-Way



**LICENSE AGREEMENT**  
(ALAMITOS BARRIER PROJECT)

THIS LICENSE AGREEMENT (“**License**”) is made \_\_\_\_\_, 20\_\_, (“**Effective Date**”) by and between ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, hereinafter referred to as “**DISTRICT**,” and ORANGE COUNTY WATER DISTRICT, a subdivision of the State of California organized under Chapter 924 of the Statutes of 1933, as amended, hereinafter referred to as “**LICENSEE**,” without regard to number and gender. DISTRICT and LICENSEE may sometimes hereinafter individually be referred to as “**Party**,” or jointly as “**Parties**.”

1. DEFINITIONS (LA2.1 S)

The following words in this License have the significance attached to them in this section, unless otherwise apparent from context:

“**Auditor-Controller**” means the Auditor-Controller, County of Orange, or designee, or upon written notice to LICENSEE, such other person or entity as shall be designated by the Board of Supervisors.

“**Channel**” means DISTRICT’s flood control facility commonly referred to as the Los Alamitos Channel (Facility No. C01).

“**County**” means the County of Orange, a political subdivision of the state of California.

“**CPP**” means the County Permit Process either online (<https://myoceservices.ocgov.com>) or through Orange County Public Works Property Permit department located at 601 N. Ross Street, Santa Ana, CA 92701.

“**Director**” means Orange County’s Director, OC Public Works, or designee.

“**LACDPW**” means the Los Angeles County Department of Public Works, LICENSEE’s authorized agent under this License as more specifically set forth in Section 5 (Use) and General Condition 17 (No Assignment, No Sub agreements or Sublicenses).

2. TERM (AMLC-3.2 N)

This License shall be for ten (10) years (“**Term**”), commencing on the Effective Date of this License unless sooner terminated as provided herein. However, LICENSEE may terminate this License at any time for any reason upon thirty (30) days written notice to Director if LICENSEE has fully complied with Section 13 (Disposition of Facilities). LICENSEE shall provide DISTRICT written notice of LICENSEE’s exercise of its option at least 90 days in advance of the expiration of the Term.

3. TERMINATION (SRLic-3.9 N)

This License shall be revocable by either DISTRICT or LICENSEE at any time; however, as a courtesy to LICENSEE, Director will endeavor to give a minimum one hundred eighty (180) days' prior written notice to LICENSEE of revocation.

4. LICENSE AREA (SRLic-1.1 S)

DISTRICT grants to LICENSEE the non-exclusive right to use, in accordance with the terms herein, that certain real property within DISTRICT right-of-way in the City of Seal Beach that serves as the maintenance road on the west side of Channel, as illustrated on **Exhibit A** attached hereto and by this reference made a part hereof ("**License Area**"), from 2<sup>nd</sup> Street that extends northerly adjacent to the City of Los Angeles' Department of Water & Power Hayes Generation Plant.

5. USE (LB1.1 N)

LICENSEE's use of the License Area shall be subordinate and conducted in such a manner that will allow for unobstructed flood control operations and maintenance of the Channel. LICENSEE's use shall be limited to LICENSEE's operation, maintenance, and repair of groundwater injection wells, utility metering device(s), subsurface water supply pipelines, monitoring wells, subgrade vaults, and necessary power and communication facilities equipping for the injection wells in connection with the Alamitos Barrier Project (collectively and individually referred to as "**LICENSEE Facilities**"). LICENSEE Facilities are permitted under this License solely at those installation sites depicted on **Exhibit A**, compiled from CPP issued permit no. 2014-0007, which includes installations pursuant permit nos. 19810918, 19920716 and 19921106; CPP 2016-00398 and CPP 2016-00407. LICENSEE shall be allowed reasonable access to LICENSEE Facilities for the purpose of exercising its License rights.

LICENSEE agrees to ensure that any and all conditions in the above-mentioned permits are met and followed at all times.

LICENSEE agrees not to use the License Area for any purpose, nor to engage in or permit any other activity within or from the License Area, other than those uses set forth herein. Los Angeles County Department of Public Works "**LACDPW**" operates and maintains the Alamitos Barrier, including the LICENSEE Facilities in the License Area. Consequently, LACDPW work in the License Area shall be on behalf of the LICENSEE. LICENSEE assumes all responsibility for LACDPW actions, inactions and operations within the License Area, and shall ensure LACDPW compliance with the License. All notices provided in accordance with Section 22 (Notices) from DISTRICT to LICENSEE shall be deemed received by LACDPW as of the date received by LICENSEE.

LICENSEE shall restrict vehicular speeds on and over DISTRICT access roads to a maximum speed of twenty (20) miles per hour. LICENSEE shall not impede, cause to be impeded, or allow to be impeded, the License Area or DISTRICT's access including but not limited to the

parking of vehicles or the depositing of any personal property, unless explicitly granted permission by giving at least twenty-four (24) hours advance notice to County's OC Public Works/OC Operation and Maintenance department at 714-955-0200. Any vehicles and/or equipment parked or placed on the License Area in violation of the terms hereof, may be towed or removed at LICENSEE's expense, at the sole discretion of the Director, and without prior notice to LICENSEE. LICENSEE acknowledges that vehicular access over the License Area is prohibited during heavy rainstorm conditions, when inundated or surface soils are wet enough to result in damage to the License Area. When surface soils are wet enough to result in damage to the License Area with vehicular access, LICENSEE's access will be limited to pedestrian access only. In cases when the License Area surface soil becomes wet enough to result in damage with vehicular access, authorized vehicular access shall not resume until the License Area is sufficiently dry to permit vehicular access without damage to the License Area.

LICENSEE acknowledges extracted well water discharges due to the exercise of its rights herein shall require prior authorization through CPP and coordination with County's OC Public Works/OC Operation and Maintenance department at 714-955-0200. LICENSEE shall be fully responsible for discharges due to LICENSEE Facilities or operations which shall include paying all DISTRICT's or County associated costs, including but not limited to, pumping or treatment related charges or expenses otherwise incurred to extract such discharge from DISTRICT's downstream facility Los Alamitos Regarding Basin (C01B01). LICENSEE shall pay DISTRICT and County costs associated with LICENSEE Facilities and operations discharges within sixty (60) calendar days following receipt of a statement of said cost from Director. LICENSEE acknowledges its responsibilities with regard to such discharges include its obligations addressed in Sections 17 (Hold Harmless) and 18 (Hazardous Material). LICENSEE's discharge responsibilities and obligation to pay DISTRICT and County costs associated with any such discharge shall survive termination of this License.

LICENSEE shall take due care to prevent unauthorized parties from accessing the DISTRICT property, including but not limited to, immediately locking any gated entry upon entering or exiting the License Area. LICENSEE further agrees not to conduct or permit to be conducted any public or private nuisance, or permit to be committed any waste in, on or from the License Area.

LICENSEE shall, at its own cost and expense, promptly and at all times observe, comply with and carry out all present and future orders, regulations, directions, rules, laws, ordinances, permits and requirements of all governmental authorities, including but not limited to the Los Angeles, Santa Ana, and San Diego Regional Water Quality Control Board (LARWQCB) and California Regional Water Quality Control Board and other environmental regulatory authorities, with jurisdiction in, on, over and about the License Area, which arise from LICENSEE's use of or performance of any activities permitted to be conducted in, on, over, or across the License Area. In addition, LICENSEE agrees its compliance with all governmental laws and regulations in connection with LICENSEE's use of the License Area shall be subject to all terms, conditions set forth in this License. LICENSEE acknowledges that DISTRICT has no duty whatsoever with respect to any regulatory water quality obligation that LICENSEE Facilities may satisfy, and any noticing, clearances, or approvals that may be required by any regulatory authority, including but not limited to the LARWQCB and California Regional Water Quality Control Board with respect to the provisional nature of this License, or any removal or modification or relocation of

LICENSEE Facilities shall be LICENSEE's sole responsibility.

LICENSEE hereby acknowledges that the License Area lies on, over or about a portion of DISTRICT's Channel and LICENSEE further acknowledges that the primary purpose of the License Area is for flood control purposes. LICENSEE agrees to conduct all activities within the License Area in such a manner that will allow for unobstructed flood control operations and maintenance of the Channel by DISTRICT. LICENSEE Facilities and the exercise of this License shall not in any way preclude or restrict future expansion or improvement of the Channel by DISTRICT.

6. AS-IS/WHERE-IS CONDITION AND RESERVATIONS TO DISTRICT (SRLic-3.4 N)

The License Area is accepted "as is" and "where is" by LICENSEE subject to any and all existing easements, encumbrances and physical characteristics. LICENSEE acknowledges that except as specifically herein provided, neither DISTRICT nor any of its employees, agents, or representatives has made any representations, warranties or agreements to or with LICENSEE on behalf of DISTRICT as to any matters concerning the License Area, access to the License Area, the present use thereof, or the suitability of LICENSEE's intended use of the License Area. Without limiting DISTRICT's rights with respect to the License Area, DISTRICT reserves for itself and its successors and assigns those rights necessary to assure proper maintenance and operation of the Channel flood control facilities and to permit any steps to be taken which the Director deems necessary or desirable to maintain, repair, improve, modify or reconstruct said facilities or such operations. The rights reserved to DISTRICT in this section, or any other section of this License shall be exercised by the Director at the Director's sole discretion. Neither DISTRICT nor any agent, employee, contractor, operator or any other person or entity acting for or on behalf of DISTRICT shall incur any liability, including, but not limited to, loss of business, damage, destruction or relocation costs of LICENSEE Facilities or impaired utility of the License Area for any action undertaken in the maintenance, repair, operation, improvement, modification or reconstruction of said flood control facilities. LICENSEE agrees that should any action undertaken in the maintenance, repair, operation, improvement, modification or reconstruction of said Channel flood control facilities require the relocation of LICENSEE Facilities either on a temporary or permanent basis. LICENSEE shall incur all costs and expenses associated therewith. Except in an emergency situation, Director shall endeavor to provide LICENSEE reasonable advance notice of planned activities which may restrict LICENSEE's use of the License Area.

DISTRICT reserves all aerial rights over License Area, the use of which shall not unreasonably interfere with LICENSEE'S use of the License Area. DISTRICT further reserves for itself and its successors and assigns, the right to install, lay, construct, maintain, repair, and operate such sanitary sewers; drains, storm water sewers, pipelines, manholes, and connections; water, oil, and gas pipelines; telephone and telegraph power lines; and appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under, and along the License Area or any part thereof, and to enter the License Area for any and all such purposes.

7. PROJECT FEE – Intentionally Omitted.

8. ANNUAL USE FEE (LC2.1N)

For the first 12-month period commencing on the Effective Date of this License, LICENSEE agrees to pay DISTRICT the sum of SIXTEEN THOUSAND DOLLARS (\$16,000.00) as the fee (“**Annual Use Fee**”) for the use of the License Area. Thereafter, throughout the term of this License, the Annual Use Fee shall, without prior notice or demand, be increased by TWO HUNDRED DOLLARS (\$200.00) annually on each anniversary of the Effective Date.

The first Annual Use Fee payment shall be due and payable within fifteen (15) days following the Effective Date. Subsequent Annual Use Fee payments shall be due and payable without prior notice or demand on or before each anniversary of the Effective Date of this License.

In the event the obligation to pay the Annual Use Fee terminates on some date other than an anniversary of the Effective Date of this License, the Annual Use Fee shall be prorated based on a 360-day year to reflect the actual period of use.

9. PAYMENT PROCEDURE (LC3.1 S)

With the exception of payment of the Project Fee, set forth hereinabove in Section 7 of this License, all Annual Use Fees and other payments due under this License shall be delivered to the Orange County Treasurer-Tax Collector, Revenue Recovery/Accounts Receivable Unit, P. O. Box 4005, Santa Ana, California 92702-4005 (or may be delivered to 601N. Ross Street, Santa Ana, CA 92701). The designated place of payment may be changed at any time by the Director upon (10) ten days’ written notice to LICENSEE. Use Fees and other payments may be made by check payable to Orange County Flood Control District with a notation that payment is for the “C01 OCWD License.” LICENSEE assumes all risk of loss if payments are made by mail.

All sums due under this License shall be paid in lawful money of the United States of America, without offset or deduction or prior notice or demand. No payment by LICENSEE or receipt by DISTRICT of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and DISTRICT shall accept such check or payment without prejudice to DISTRICT’s right to recover the balance of said payment or pursue any other remedy in this License.

10. CHARGE FOR LATE PAYMENT (LC4.1 S)

LICENSEE hereby acknowledges that late payment of sums due hereunder will cause DISTRICT to incur costs not contemplated by this License, the exact amount of which will be extremely difficult to ascertain. Such costs include but are not limited to costs such as administrative processing of delinquent notices, increased accounting costs, etc.

Accordingly, if any payment pursuant to this License is not received by DISTRICT by the due

date, a late charge of one and one half percent (1.5%) of the payment due and unpaid plus \$100 shall be added to the payment, and the total sum shall become immediately due and payable to DISTRICT. An additional charge of one and one half percent (1.5%) of said payment, excluding late charges, shall be added for each additional month that said payment remains unpaid.

LICENSEE and DISTRICT hereby agree that such late charges represent a fair and reasonable estimate of the costs that DISTRICT will incur by reason of LICENSEE's late payment.

## 11. CONSTRUCTION

LICENSEE shall have all construction, including the installation of any systems, facilities or equipment, approved in writing by the Director, through CPP with payment of normal processing fees therefor, prior to commencement of any construction work in, on, over, under, across or about the License Area; and upon completion of any such work, LICENSEE shall immediately notify Director in writing of such completion.

Director's approval of LICENSEE's construction plans shall not be deemed an approval from the standpoint of structural safety, suitability for purpose or conformance with building or other codes or other governmental requirements. DISTRICT is not responsible for permitting of any construction, design, assumptions or accuracy of LICENSEE's construction plans. Director will rely on the professional expertise of the Engineer of Record when approving LICENSEE's construction.

Should it be necessary for LICENSEE to conduct any construction requiring the disturbance of the surface of the License Area or requiring the use of any specialized vehicles or equipment, including but not limited to cranes, within, over, under or about the License Area subsequent to the completion of the initial installation of LICENSEE Facilities, LICENSEE agrees to notify Director in writing sixty (60) days in advance of such planned activities, obtain Director's written approval of all plans, and obtain a permit through CPP with payment of normal processing fees therefor, prior to commencement of any such activities. Said approval shall not be withheld unreasonably, nor shall said approval be necessary in any emergency situation or in conducting routine maintenance activities which do not involve use of DISTRICT property outside of the License Area. However, LICENSEE shall notify Director within five (5) days following commencement of any emergency repair work, and if so requested by Director, Licensee shall secure a permit through CPP for the purpose of documenting the emergency work.

## 12. MAINTENANCE/OPERATIONS (LD2.1 N)

LICENSEE shall, to the satisfaction of DISTRICT, and at no cost to DISTRICT, keep and maintain the License Area and all LICENSEE Facilities of any kind in good and safe condition and in substantial repair, and shall at all times conduct all operations thereon in a safe and responsible manner. It shall be LICENSEE's responsibility to take all steps necessary or appropriate to maintain such standard of condition, repair and operation.

Director shall have the right to enter upon and inspect the License Area at any time.

LICENSEE shall designate in writing to Director, representative who shall be responsible for the day-to-day operation and level of maintenance and general order of the License Area and any LICENSEE Facilities.

DISTRICT shall have no obligation to maintain or make any repairs or replacements to any area in, on over under or about the License Area to accommodate LICENSEE'S use or LICENSEE Facilities.

If LICENSEE fails to maintain or make repairs or replacements as required herein, Director may notify LICENSEE in writing of said failure. Should LICENSEE fail to correct the situation within a reasonable time thereafter as established by Director, Director may have the necessary correction made and the cost thereof, including but not limited to the cost of labor, materials, and equipment and a fifteen percent (15%) administration fee of such costs, shall be paid by LICENSEE within ten (10) days following receipt of a statement of said cost from Director. Director may, at Director's option, choose other remedies available herein, or by law.

LICENSEE shall also promptly, at its sole cost and expense, repair or replace any facilities, equipment or improvements on DISTRICT's property located under, over, within or adjacent to the License Area that are damaged or destroyed by LICENSEE in the exercise of LICENSEE's rights hereunder. Such repair or restoration shall be to approximately the same workmanship and condition as existed prior to such damage or destruction. If LICENSEE shall fail to perform any such repair or restoration within thirty (30) days following written notice from Director to LICENSEE, or as such repair or restoration period may be extended in writing by Director, DISTRICT may have the necessary repair or restoration made and the cost hereof, including but not limited to the cost of labor, materials, and equipment and a fifteen percent (15%) administration fee of such costs, shall be paid by LICENSEE within ten (10) days following receipt of a statement of said cost from Director. Director may, at Director's option, choose other remedies available herein, or by law.

LICENSEE agrees to maintain LICENSEE'S facilities and equipment within the License Area at all times in good condition and repair. If the LICENSEE fails to maintain their facilities and equipment, the DISTRICT may send the LICENSEE a notice to cure that will require the LICENSEE thirty (30) days to correct any issues written in the notice to cure. Nothing in this section shall affect either Party's ability to terminate this License as set forth in Section 3, above.

### 13. DISPOSITION OF FACILITIES UPON TERMINATION OF LICENSE (N)

A. Unless Director has provided LICENSEE with written notice that DISTRICT wishes to retain any or all LICENSEE Facilities, LICENSEE shall at LICENSEE's sole cost and expense, no later than 60 days after the expiration or sooner termination of this License, after obtaining CPP prior authorization do the following:

1. Abandon all water wells on the License Area in place, in accordance with state water well standards (e.g. CA Department of Water Resources Bulletins 74-81 and Bulletins 74-90); and,

2. Remove all other LICENSEE Facilities, both surface and underground, located on or within the License Area to Director's satisfaction which shall include, but not be limited to, compaction of filled excavations to ninety percent (90%) compaction as determined by California Test Method No. 216 and delivering the License Area in a condition which allows for unrestricted use of the property. Notwithstanding the above, Director may allow certain LICENSEE Facilities to remain provided LICENSEE continues to be fully responsible therefor and pays DISTRICT upfront an amount equal to the estimated cost for its removal.

B. In the event LICENSEE fails to perform its obligations under this section, in addition to any other rights or remedies available to DISTRICT, Director, at Director's option after fifteen (15) days written notice to LICENSEE, may cause the removal of any of LICENSEE Facilities from the License Area, and the cost thereof, including but not limited to the cost of labor, materials, and equipment, and a fifteen percent (15%) administration fee of such costs, shall be paid by LICENSEE within ten (10) days of receipt of an statement of said costs from Director.

C. The DISTRICT recognizes LICENSEE Facilities with the Alamitos Barrier Project operate to protect Orange County groundwater resources used for potable water supplies from seawater intrusion. As such, the DISTRICT shall take reasonable measures to minimize the need for relocating LICENSEE Facilities.

#### 14. RELOCATION OF LICENSEE FACILITIES

LICENSEE agrees that in the event Director determines that LICENSEE Facilities will interfere with the operation, maintenance, replacement, or improvement of DISTRICT's Channel flood control facilities or property LICENSEE shall, within ninety (90) days of receipt of written notice from Director, and at LICENSEE's sole cost and expense arrange for the removal of LICENSEE Facilities from the License Area and any reinstallation of LICENSEE Facilities within the License Area. Under no circumstance shall DISTRICT be obligated to provide a relocation site for LICENSEE Facilities and/or equipment during such period of interference.

#### 15. UTILITIES (LD1.2 N)

LICENSEE shall be responsible for installation of all utilities and shall pay, prior to the delinquency date, all charges for utilities supplied to the License Area.

#### 16. INSURANCE (LD3.1 S)

##### A. General Requirements

LICENSEE agrees to purchase all required insurance at LICENSEE's expense and to deposit with the DISTRICT certificates of insurance, including all endorsements required herein, necessary to satisfy the DISTRICT that the insurance provisions of this License have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the DISTRICT during the entire term of this License.

LICENSEE agrees that LICENSEE shall not operate on the License Area at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of Director. In no cases shall assurances by LICENSEE, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Director will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. LICENSEE also agrees that upon cancellation, termination, or expiration of LICENSEE's insurance, DISTRICT may take whatever steps are necessary to interrupt any operation from or on the License Area until such time as the Director has received adequate evidence that LICENSEE reinstated insurance in compliance with the terms herein.

If LICENSEE fails to provide Director with a valid certificate of insurance and endorsements, or binder at any time during the term of the License, DISTRICT and LICENSEE agree that this shall constitute a material breach of the License. Whether or not a notice of default has or has not been sent to LICENSEE, said material breach shall permit DISTRICT to take whatever steps necessary to interrupt any operation from or on the License Area, and to prevent any persons, including, but not limited to, members of the general public, and LICENSEE's employees and agents, from entering the License Area until such time as Director is provided with adequate evidence of insurance required herein. LICENSEE further agrees to hold DISTRICT harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the DISTRICT's action.

LICENSEE may occupy the License Area only upon providing to DISTRICT the required insurance stated herein and maintain such insurance for the entire term of this License. DISTRICT reserves the right to terminate this License at any time LICENSEE's insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. LICENSEE shall pay DISTRICT a fee of ONE THOUSAND FIVE-HUNDRED DOLLARS (\$1,500.00) for processing the reinstatement of the License. LICENSEE shall provide to DISTRICT immediate notice of said insurance cancellation or termination.

LACDPW and all contractors of LICENSEE and LACDPW performing work on behalf of LICENSEE pursuant to this License shall obtain insurance subject to the same terms and conditions as set forth herein for LICENSEE. LICENSEE shall not allow contractors or subcontractors to work if contractors have less than the level of coverage required by the DISTRICT from the LICENSEE under this License. It is the obligation of the LICENSEE to provide written notice of the insurance requirements to every contractor and to receive proof of insurance prior to allowing any contractor to begin work within the License Area. Such proof of insurance must be maintained by LICENSEE through the entirety of this License and be available for inspection by a DISTRICT representative at any reasonable time.

All self-insured retentions ("SIR(s)") shall be clearly stated on the Certificate of Insurance. Any SIR in an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00) shall specifically be approved by the County of Orange Risk Manager, or designee, upon review of LICENSEE's current audited financial report. If LICENSEE's SIR is approved, LICENSEE, in addition to, and without limitation of, any other indemnity provision(s) in this License, agrees to all of the

following:

- a) In addition to the duty to indemnify and hold the DISTRICT harmless against any and all liability, claim, demand or suit resulting from LICENSEE's, its agents, employee's or subcontractor's performance of this License, LICENSEE shall defend the DISTRICT at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- b) LICENSEE's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
- c) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the LICENSEE's SIR provision shall be interpreted as though the LICENSEE was an insurer and the DISTRICT was the insured.

### **Qualified Insurer**

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the LICENSEE shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$5,000,000 per occurrence \$5,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles.	\$1,000,000 limit per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Pollution Liability	\$1,000,000 per claims-made or occurrence

Insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies must provide Follow Form coverage.

### **Required Coverage Forms**

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

### **Required Endorsements**

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- a) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange and Orange County Flood Control District, and their respective elected and appointed officials, officers, employees, agents*** as Additional Insureds. Blanket coverage may also be provided which will state- ***As Required by Written Agreement***.
- b) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad, evidencing that the LICENSEE's insurance is primary and any insurance or self-insurance maintained by the DISTRICT and/or the County of Orange shall be excess and non-contributing.

The Pollution Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- a) An Additional Insured endorsement naming the County of Orange and Orange County Flood Control District, and their respective elected and appointed officials, officers, employees and agents as Additional Insureds.
- b) A primary and non-contributing endorsement evidencing that LICENSEE's insurance is primary and any insurance or self-insurance maintained by DISTRICT and/or the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the ***County of Orange and Orange County Flood Control District, and their respective elected and appointed officials, officers, employees, agents***. Blanket coverage may also be provided which will state- ***As Required by Written Agreement***.

All insurance policies required by this License shall waive all rights of subrogation against the County of Orange and Orange County Flood Control District, and their respective elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a “separation of insureds” clause (standard in the ISO CG 001 policy).

If LICENSEE’s Pollution Liability policy is a claims-made policy, LICENSEE shall agree to the following:

- 1) The retroactive date must be shown and must be before the date of the Contract or the beginning of the Contract services.
- 2) Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Contract services.
- 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Contract services, Contractor must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination of the Contract.

Insurance certificates should be emailed to [insurance@ceore.ocgov.com](mailto:insurance@ceore.ocgov.com) and printed copies shall be forwarded to the DISTRICT address provided in the Clause 22 (Notices) below or to an address provided by Director. LICENSEE has ten (10) business days to provide adequate evidence of insurance or this License may be cancelled.

DISTRICT expressly retains the right to require LICENSEE to increase or decrease insurance of any of the above insurance types throughout the term of this License. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect DISTRICT.

DISTRICT shall notify LICENSEE in writing of changes in the insurance requirements. If LICENSEE does not deposit copies of acceptable certificates of insurance and endorsements with DISTRICT incorporating such changes within thirty (30) days of receipt of such notice, this License may be in breach without further notice to LICENSEE, and DISTRICT shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit LICENSEE's liability hereunder nor to fulfill the indemnification provisions and requirements of this License, nor in any way to reduce the policy coverage and limits available from the insurer.

## 17. HOLD HARMLESS

LICENSEE acknowledges the License Area is in, on, and over DISTRICT's Channel and may be subject to all hazards associated with flood conditions. LICENSEE agrees to assume all risks, financial or otherwise, associated therewith; including, but not limited to, any interruption in or restricted use of the License Area, whether temporary or permanent due to DISTRICT's use of, or operations conducted in, on, or about the License Area.

LICENSEE hereby releases and waives all claims and recourse against DISTRICT and County including the right of contribution for loss of or damage to property, or injury to or death of any person arising from, growing out of or in any way connected with or related to this License, including any damage to or interruption of use of any of LICENSEE's equipment or facilities placed in, on, or about the License Area, caused by erosion, flood, or flood overflow conditions of the Channel, or caused by the operation, maintenance, repair, reconstruction, replacement, enlargement or improvement of the Channel, or caused by DISTRICT's flood control operations, except claims arising from the concurrent active or sole negligence of DISTRICT and/or County, their officers, agents, employees and contractors.

LICENSEE hereby agrees to indemnify, defend (with counsel approved in writing by DISTRICT), and hold harmless, DISTRICT and County, their elected and appointed officials, officers, agents, employees and contractors against any and all claims, losses, demands, damages, cost, expenses or liability for injury to any persons or property, arising out of the maintenance, use of or operations or activities conducted in, on, or over the License Area, and/or the exercise of the rights under this License by LICENSEE, its agents, officers, employees, invitees or licensees, except for liability arising out of the concurrent active or sole negligence of DISTRICT, and/or County, their elected and appointed officials, officers, agents, employees or contractors including the cost of defense of any lawsuit arising therefrom. If DISTRICT and/or County is/are named as co-defendant(s) in a lawsuit, LICENSEE shall notify Director of such fact and shall represent DISTRICT/County in such legal action unless DISTRICT/County undertake(s) to represent itself/themselves as co-defendant(s) in such legal action, in which event, LICENSEE shall pay to DISTRICT/County its/their litigation costs, expenses, and attorney fees. If judgment is entered against DISTRICT/County and LICENSEE by a court of competent jurisdiction because of the concurrent active negligence of DISTRICT/County and LICENSEE, DISTRICT and LICENSEE agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

LICENSEE acknowledges that it is familiar with the language and provisions of California Civil Code Section 1542 which provides as follows:

*A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.* LICENSEE, being aware of and understanding the terms of Section 1542, hereby waives all benefit of its provisions to the extent described in this section.

18. HAZARDOUS MATERIALS (SRLic-2.6 S)

A. Definition of Hazardous Materials

For purposes of this License, the term “**Hazardous Material(s)**” shall mean any hazardous or toxic substance, material, product, byproduct, or waste which is or shall become regulated by any governmental entity, including, without limitation, County, the State of California, or the United States government.

B. Use of Hazardous Materials

LICENSEE or LICENSEE’s employees, representatives, member agencies, agents, contractors, operators, invitees, and any person authorized by LICENSEE to conduct activities on the License Area (individually and collectively “**LICENSEE Parties**”) shall not cause or permit any Hazardous Materials to be brought upon, stored, kept, used, generated, released into the environment or disposed of on, under, from or about the License Area (which for purposes of this clause shall include the subsurface soil and ground water). Notwithstanding the foregoing, LICENSEE may cause or permit small quantities of Hazardous Materials on the License Area to be used in the ordinary, customary, and lawful cleaning of and operations on the License Area, provided said use and activities are conducted as provided by law.

C. LICENSEE Obligations

If the presence of any Hazardous Materials on, under or about the License Area caused or permitted by LICENSEE or LICENSEE Parties results in (i) injury to any person, (ii) injury to or contamination of the License Area (or a portion thereof), or (iii) injury to or contamination of any real or personal property wherever situated, LICENSEE, at its sole cost and expense, shall promptly take all actions necessary or appropriate to return the License Area and/or other property to the condition existing prior to the introduction of such Hazardous Materials in, on, or about the License Area and to remedy or repair any such injury or contamination. Without limiting any other rights or remedies of DISTRICT under this License, LICENSEE shall pay the cost of any cleanup or remedial work performed on, under, or about the License Area as required by this License or by applicable laws in connection with the removal, disposal, neutralization or other treatment of such Hazardous Materials caused or permitted by LICENSEE or LICENSEE Parties. Notwithstanding the foregoing, LICENSEE shall not take any remedial action in response to the presence, discharge or release, of any Hazardous Materials on, under or about the License Area caused or permitted by LICENSEE or LICENSEE Parties, or enter into any settlement License, consent decree or other compromise with any governmental or quasi-governmental entity without first obtaining the prior written consent of Director. All work performed or caused to be performed by LICENSEE as provided for above shall be done in good and workmanlike manner and in compliance with plans, specifications, permits, and other requirements for such work approved by Director.

D. Indemnification for Hazardous Materials

To the fullest extent permitted by law, LICENSEE hereby agrees to indemnify, hold harmless, protect and defend [with attorney(s) approved in writing by Director] DISTRICT and County, their elected officials, officers, employees, agents, and independent contractors and the License Area, from and against any and all liabilities, losses, damages (including, but not limited to, damages for the loss or restriction of use of rentable or usable space or any amenity of the

License Area or damages arising from any adverse impact on marketing and diminution in the value of the License Area), judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorney fees, disbursements and court costs and all other professional or consultant expenses), whether foreseeable or unforeseeable, arising directly or indirectly out of the presence, exposure, encounter, disturbance, extraction, use, generation, storage, treatment, on or off-site disposal or transportation of Hazardous Materials on, into, from, under or about the License Area by any act or omission of LICENSEE or LICENSEE Parties. The foregoing indemnity shall also specifically include the cost of any required or necessary repair, restoration, clean-up or detoxification of the License Area and/or other real property and the preparation of any closure or other required plans.

#### 19. BEST MANAGEMENT PRACTICES (SRLic-2.7 S)

LICENSEE and all of its agents, employees and contractors shall conduct operations under this License so as to assure that pollutants do not enter municipal storm drain systems which systems are comprised of, but are not limited to curbs and gutters that are part of the street systems (“Stormwater Drainage System”), and to ensure that pollutants do not directly impact “Receiving Waters” (as used herein, Receiving Waters include, but are not limited to, rivers, creeks, streams, estuaries, lakes, harbors, bays and oceans).

The Santa Ana and San Diego Regional Water Quality Control Boards have issued National Pollutant Discharge Elimination System permits (“Stormwater Permits”) to the County of Orange, and to the Orange County Flood Control District and cities within Orange County, as co-permittees (hereinafter collectively referred to as “DISTRICT Parties”) which regulate the discharge of urban runoff from areas within the County of Orange, including the License Areas and under this License. The DISTRICT Parties have enacted water quality ordinances that prohibit conditions and activities that may result in polluted runoff being discharged into the Stormwater Drainage System.

To assure compliance with the Stormwater Permits and water quality ordinances, the DISTRICT Parties have developed a Drainage Area Management Plan (“DAMP”) which includes a Local Implementation Plan (“LIP”) for each jurisdiction that contains Best Management Practices (“BMPs”) that parties using properties within Orange County must adhere to. As used herein, a BMP is defined as a technique, measure, or structural control that is used for a given set of conditions to manage the quantity and improve the quality of storm water runoff in a cost effective manner. These BMPs are found within the DISTRICT’s LIP in the form of Model Maintenance Procedures and BMP Fact Sheets (the Model Maintenance Procedures and BMP Fact Sheets contained in the DAMP/LIP shall be referred to hereinafter collectively as “BMP Fact Sheets”) and contain pollution prevention and source control techniques to eliminate non-storm water discharges and minimize the impact of pollutants on stormwater runoff.

LICENSEE shall review and assure that all contractors working on License Area review the applicable Model Maintenance Procedures contained in the DAMP/LIP and BMP Fact Sheets. Activities performed on the License Area under this License shall conform to the requirements of the Stormwater Permits, the DAMP/LIP, BMP Fact Sheets and the Model Maintenance Procedures, as they exist at the time this License commences and as each may be modified

throughout the term of this License. The BMP's applicable to uses authorized under this License must be performed as described within all applicable Model Maintenance Procedures and/or BMP Fact Sheets. LICENSEE shall fully understand the Model Maintenance Procedures and any related BMP Fact Sheets applicable to operations conducted on the License Area prior to conducting them.

LICENSEE and/or its contractors may propose alternative BMPs that meet or exceed the pollution prevention performance of the BMP Fact Sheets. Any such alternative BMPs shall be submitted to the Director for review and approval prior to implementation.

The Director or authorized representative may enter the License Area and/or review LICENSEE's records at any time to assure that activities conducted on the License Area comply with the requirements of this Clause (BEST MANAGEMENT PRACTICES). LICENSEE may be required to implement a self-evaluation program to demonstrate compliance with the requirements of this Clause (BEST MANAGEMENT PRACTICES).

## 20. AMENDMENTS (SRLic-4.1 S)

This License is the sole and only agreement between the Parties regarding the subject matter hereof; other agreements, either oral or written, are void. Any changes to this License shall be in writing and shall be properly executed by both Parties.

## 21. LIMITATION OF THE LICENSE (LA5.1 S)

This License and the rights and privileges granted LICENSEE in and to the License Area are subject to all covenants, conditions, restrictions, and exceptions of record or apparent from a physical inspection of the License Area. Nothing contained in this License or in any document related hereto shall be construed to (a) imply the conveyance to LICENSEE of rights in the License Area which exceed those owned by DISTRICT; or (b) imply the conveyance of an easement or any permanent or exclusive rights in the License Area.

## 22. NOTICES (LE1.1 S)

All notices, documents, correspondence and communications concerning this License shall be addressed as set forth in this Section, or as the Parties may hereafter designate by written notice and shall be sent through the United States mail with postage prepaid. Any such mailing shall be deemed served or delivered forty-eight (48) hours after mailing. Either Party may change the address for notices by giving the other Party at least ten (10) calendar days' prior written notice of the new address.

Notwithstanding the above, either Party may also provide notices, documents, correspondence, or such other communications to the other by personal delivery or by Federal Express or similar courier service and so given shall be deemed to have been given upon receipt.

TO: DISTRICT

Orange County Flood Control District  
CEO/Real Estate Services  
RE: C01 OCWD Alamitos Barrier License  
P. O. Box 4048  
Santa Ana, CA 92702-4048  
Facsimile: 714/834-2870

TO: LICENSEE

Orange County Water District  
18700 Ward Street  
P. O. Box 8300  
Fountain Valley, CA 92728-8300  
Facsimile: 714/378-3370  
Attn: Property Management

23. RECORDING PROHIBITED (SRLic-5.8 S)

This License may not be recorded.

24. AUTHORITY (PMES20.1S)

The Parties to this License represent and warrant that this License has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

25. GENERAL CONDITIONS (LE1.1 S)

This License includes the General Conditions attached hereto in **Exhibit B** and by this reference made a part hereof. In the event of any conflict between the provisions of this License and the provisions in the General Conditions, the provisions of the License shall control.

26. ATTACHMENTS TO LICENSE (SRLic-5.6 S)

This License includes the following, which is attached hereto and made a part hereof:

Exhibit A – Depiction of License Area  
Exhibit B –General Conditions - License

27. COUNTERPARTS

This License may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this License the day and year first above written.

**DISTRICT**

By: \_\_\_\_\_  
Thomas A. Miller,  
Chief Real Estate Officer  
Per Minute Order dated  
February 25, 2014

Approved as to Form  
Office of the County Counsel  
Orange County, California

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

**LICENSEE**

ORANGE COUNTY WATER DISTRICT,  
subdivision of the State of California organized  
under Chapter 924 of the Statutes of 1933, as  
amended

By: \_\_\_\_\_  
Cathy Green, President

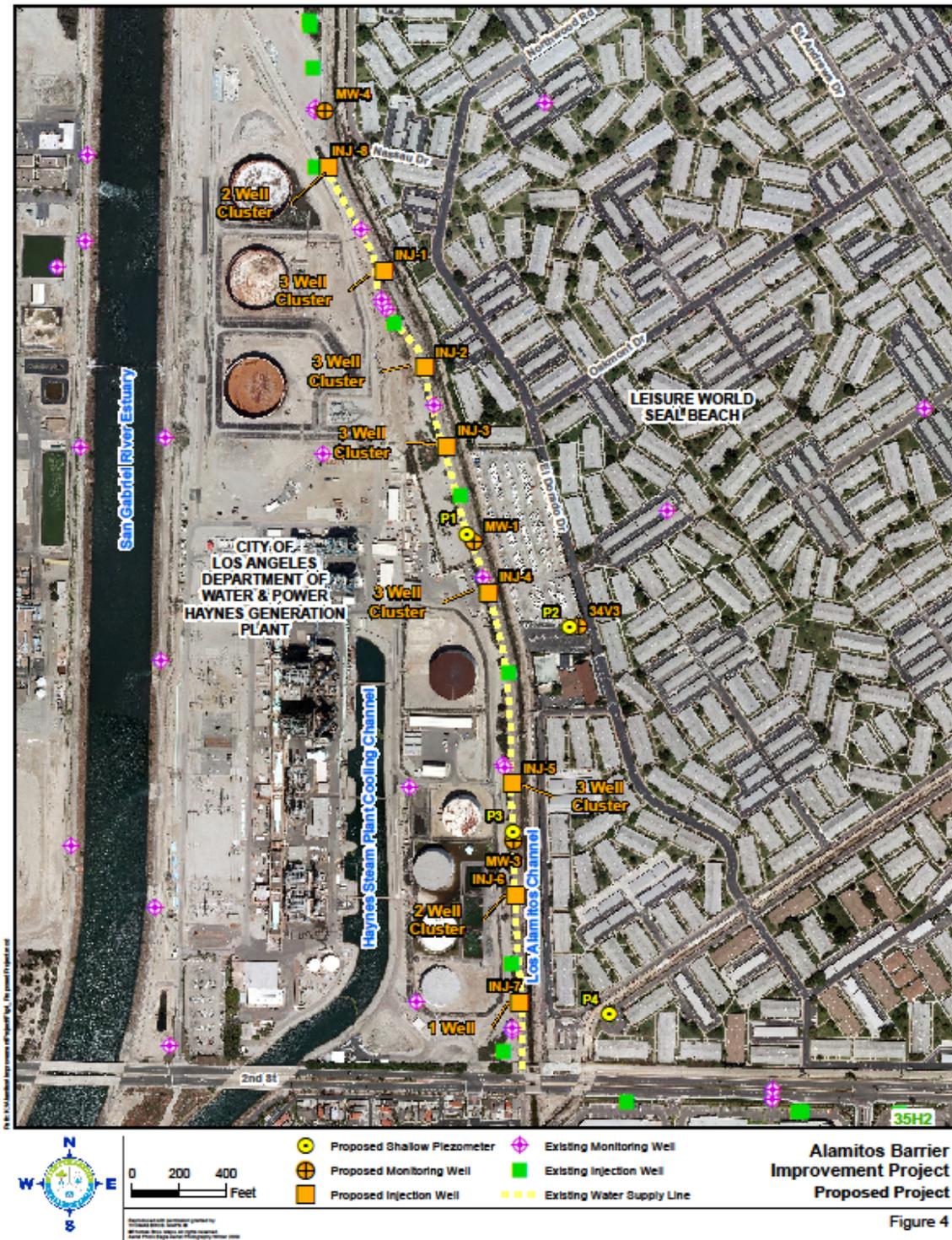
By: \_\_\_\_\_  
John Kennedy, General Manager

Approved as to Form  
RUTAN & TUCKER, LLP.

By: \_\_\_\_\_  
General Counsel  
Orange County Water District

Date: \_\_\_\_\_

Exhibit A  
 Location Map



## **Exhibit B**

### **GENERAL CONDITIONS - LICENSE (LG17 S)**

#### **1. SIGNS (LG2 S)**

LICENSEE agrees not to construct, maintain, or allow any sign upon License Area except as approved by Director. Unapproved signs, banners, flags, etc., may be removed by Director at LICENSEE's expense.

#### **2. PERMITS AND LICENSES (SRLic-4.9 N)**

LICENSEE shall be required to obtain and maintain throughout the Term of this License any and all permits and/or licenses which may be required in connection with the operation of the License Area as set out herein. No permit, approval, or consent given hereunder by DISTRICT, in its governmental capacity, shall affect or limit LICENSEE's obligations hereunder, nor shall any approvals or consents given by DISTRICT, as a Party to this License, be deemed approval as to compliance or conformance with applicable governmental codes, laws, rules, or regulations.

LICENSEE shall be required at LICENSEE's sole cost and expense to obtain and maintain at all times during the term of this License, any and all permits, certificates, approvals and/or licenses which may be required by any federal, state, county, city or other governmental agency, department or bureaucracy having jurisdiction over LICENSEE, or LICENSEE's business or operations in connection with the License Area as set out herein. No permit, approval or consent given hereunder by DISTRICT, in its governmental capacity, shall affect or limit LICENSEE's obligations hereunder nor shall any such approvals or consents given by DISTRICT, be deemed approval as to compliance or conformance with applicable, governmental codes, laws, ordinances, rules, or regulations.

#### **3. LICENSE ORGANIZATION (LG4 S)**

The various headings and numbers herein, the grouping of provisions of this License into separate clauses and paragraphs, and the organization hereof, are for the purpose of convenience only and shall not be considered otherwise.

#### **4. AMENDMENTS (SRLic-4.1 S)**

This License is the sole and only agreement between the Parties regarding the subject matter hereof; other agreements, either oral or written, are void. Any changes to this License shall be in writing and shall be properly executed by both Parties.

#### **5. UNLAWFUL USE (SRLic-3.3 S)**

LICENSEE agrees no improvements shall be erected, placed upon, operated, nor maintained on the License Area, nor any business conducted or carried on therein or therefrom, in violation of the terms of this License, or of any regulation, order of law, statute, bylaw, or ordinance of a governmental agency having jurisdiction.

Further, all uses of the License Area by LICENSEE shall be conducted in accordance with all applicable law, ordinance, or regulation, including but not limited to any "Environmental Laws." "Environmental

Laws” means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (A) pollution or protection of the environment, including natural resources, (B) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (C) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities, or (D) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

## **6. LABOR CODE COMPLIANCE (SRLic-3.7 S)**

LICENSEE acknowledges and agrees that all improvements or modifications during the term of this License performed by LICENSEE shall be governed by, and performed in accordance with, the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (Sections 1770, et seq.), as applicable. These provisions may be applicable to improvements or modifications costing more than \$1,000, unless an exception applies, including but not limited to the exception to the definition of public works under § 1720.2.

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, LICENSEE shall comply with the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this License for each craft, classification, or type of workman needed to execute the aforesaid improvements or modifications. The rates are available at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm> from the Director of the State Department of Industrial Relations. LICENSEE shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates at all times for all improvements or modifications to be completed within the License Area. LICENSEE shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

As required by applicable law, LICENSEE shall maintain certified payroll records for all workers that will be assigned to the improvements or modifications. Said payroll records shall contain, but not be limited to, the complete name, address, telephone number, social security number, job classification, and prevailing wage rate for each worker. Upon request LICENSEE shall provide the DISTRICT updated certified payroll records for all workers that shall include, but not be limited to, the weekly hours worked, prevailing hourly wage rates, and total wages paid.

If LICENSEE neglects, fails, or refuses to provide said payroll records to the DISTRICT, upon request, such occurrence shall constitute an event of default of this License and DISTRICT may, notwithstanding any other termination provisions contained herein terminate this License upon written notice to LICENSEE.

## **7. RIGHT TO WORK AND MINIMUM WAGE LAWS (SRLic-3.8 S)**

In accordance with the United States Immigration Reform and Control Act of 1986, LICENSEE shall require its employees that directly or indirectly service the License Area or terms and conditions of this License, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. LICENSEE shall also require and verify that its contractors or any other persons servicing the License Area or terms and conditions of this License, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.

Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of California Labor Code, Section 1178.5, LICENSEE shall pay no less than the greater of the Federal or California

Minimum Wage to all its employees that directly or indirectly service the License Area, in any manner whatsoever. LICENSEE shall require and verify that all its contractors or other persons servicing the License Area on behalf of the LICENSEE also pay their employees no less than the greater of the Federal or California Minimum Wage.

LICENSEE shall comply and verify that its contractors comply with all other Federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to the servicing of the License Area or terms and conditions of this License.

Notwithstanding the minimum wage requirements provided for in this Clause, LICENSEE, where applicable, shall comply with the prevailing wage and related requirements pursuant to the provisions of Section 1773 of the Labor Code of the State of California.

**8. INSPECTION (SRLic-4.7 S)**

DISTRICT or its authorized representative shall have the right at all reasonable times to inspect the operation to determine if the provisions of this License are being complied with.

**9. TAXES AND ASSESSMENTS (SRLic-3.6 S)**

Although not anticipated, should this License create a possessory interest which is subject to the payment of taxes levied on such interest, it is understood and agreed that all taxes and assessments (including but not limited to said possessory interest tax) which become due and payable in connection with this License or upon LICENSEE Facilities or other property used in connection with this License, shall be the full responsibility of LICENSEE, and LICENSEE shall cause said taxes and assessments to be paid promptly.

**10. PARTIAL INVALIDITY (SRLic-4.2 S)**

If any term, covenant, condition, or provision of this License is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

**11. WAIVER OF RIGHTS (SRLic-4.3 S)**

The failure of DISTRICT to insist upon strict performance of any of the terms, covenants, or conditions of this License shall not be deemed a waiver of any right or remedy that DISTRICT may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants, and conditions of the License thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant, or condition of the License. Any waiver, in order to be effective, must be signed by the Party whose right or remedy is being waived.

**12. ATTORNEY FEES (SRLic-4.5 S)**

In the event of a dispute between DISTRICT and LICENSEE concerning claims arising out of this License, or in any action or proceeding brought to enforce or interpret any provision of this License or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney fees.

**13. AS-IS/WHERE-IS CONDITION (LG13 N)**

The License Area is accepted "as is" and "where is" by LICENSEE subject to any and all existing easements, encumbrances and physical characteristics. LICENSEE acknowledges that except as specifically herein provided, neither DISTRICT nor any of its employees, agents, or representatives has

made any representations, warranties or agreements to or with LICENSEE on behalf of DISTRICT as to any matters concerning the License Area, access to the License Area, the present use thereof, or the suitability of LICENSEE's intended use of the License Area.

- A. Without limiting DISTRICT's rights with respect to the License Area, DISTRICT reserves the right to install, lay, construct, maintain, repair, and operate such drains, storm water sewers, pipelines, manholes, and connections; and appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under, and along the License Area or any part thereof, and to enter the License Area for any and all such purposes.
- B. DISTRICT also reserves the right to grant franchises, easements, rights of way, and permits in, over, upon, through, across, under, and along any and all portions of the License Area. No right reserved by DISTRICT in this Section 13.B. shall be so exercised as to interfere unreasonably with LICENSEE's use hereunder.

DISTRICT agrees that rights granted to third parties by reason of this Section 13.B. shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any construction. DISTRICT further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the License Area by LICENSEE, any use fee (if a use fee is required pursuant to this License) shall be reduced in proportion to the interference with LICENSEE's use of the License Area.

#### **14. CONDITION OF LICENSE AREA UPON TERMINATION (LG14 S)**

Except as otherwise agreed to herein, upon termination of this License, LICENSEE shall redeliver possession of said License Area to DISTRICT in substantially the same condition that existed immediately prior to LICENSEE's entry thereon, reasonable wear and tear, flood, earthquakes, war, and any act of war, excepted.

#### **15. DISPOSITION OF ABANDONED PERSONAL PROPERTY (LG15 N)**

If LICENSEE abandons the License Area or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to LICENSEE and left on the License Area fifteen (15) days after such event shall, at Director's option, be deemed to have been transferred to DISTRICT. DISTRICT shall have the right to remove and to dispose of such property, at LICENSEE's cost, without liability therefor to LICENSEE or to any person claiming under LICENSEE, and shall have no need to account therefor and LICENSEE agrees to pay such costs, including but not limited to the cost of labor, materials, and equipment and a fifteen percent (15%) administration fee of such costs, within ten (10) days following a receipt of an statement of such costs from Director.

#### **16. TIME (SRLic-4.6 S)**

Time is of the essence of this License. Failure to comply with any time requirements of this License shall constitute a material breach of this License.

#### **17. NO ASSIGNMENT, SUBAGREEMENTS (SRLic-3.5 S)**

LICENSEE understands that this License is not an interest in real property nor is it an assignable right. Any attempt to assign or otherwise transfer this License by LICENSEE, voluntarily or by operation of law, shall automatically terminate this License. The Parties acknowledge with respect to LACDPW that an assignment or transfer of LICENSEE rights and obligations has not transpired, as LICENSEE remains

responsible under the License and for LACDPW. Sublicenses or subleases are not authorized under this License and any attempt by LICENSEE to create any such sublicense or sublease shall be null and void and shall automatically terminate the License.

**18. PUBLIC RECORDS (SRLic-5.3 S)**

Any and all written information submitted to and/or obtained by DISTRICT from LICENSEE or any other person or entity having to do with or related to this License and/or the License Area, either pursuant to this License or otherwise, at the option of DISTRICT, may be treated as a public record open to inspection by the public pursuant to the California Records Act (Government Code Section 6250, et seq.) as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public and LICENSEE hereby waives, for itself, its agents, employees, sub-licensees, and any person claiming by, through or under LICENSEE, any right or claim that any such information is not a public record or that the same is a trade secret or confidential information and hereby agrees to indemnify and hold DISTRICT harmless from any and all claims, demands, liabilities, and/or obligations arising out of or resulting from a claim by LICENSEE or any third party that such information is a trade secret, or confidential, or not subject to inspection by the public, including without limitation reasonable attorneys' fees and costs.

**29. RELATIONSHIP OF PARTIES (SRLic-5.4 S)**

The relationship of the parties hereto is that of licensor and licensee, and it is expressly understood and agreed that DISTRICT does not in any way or for any purpose become a partner of or a joint venture with LICENSEE in the conduct of LICENSEE's business or otherwise, and the provisions of this License and the agreements relating to rent payable hereunder are included solely for the purpose of providing a method by which rental payments are to be measured and ascertained.

**30. GOVERNING LAW AND VENUE (SRLic-4.4 S)**

This agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.



## AGENDA ITEM SUBMITTAL

**Meeting Date:** October 25, 2024

**To:** Property Management Committee  
Board of Directors

**From:** John Kennedy

**Staff Contact:** B. Dosier/D. Park

**Budgeted:** No

**Budget Amount:** \$0

**Cost Estimate:** N/A

**Funding Source:** N/A

**Program/Line Item No.:** N/A

**General Counsel Approval:** N/A

**Engineers/Feasibility Report:** N/A

**CEQA Compliance:** N/A

**Subject: STATUS UPDATE REGARDING THE DISTRICT'S IMPERIAL HIGHWAY  
PROPERTY**

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### SUMMARY

The District owns a vacant 19-acre land parcel in the city of Anaheim, located west of Imperial Highway and south of the Santa Ana River (SAR). At its October 2 Board meeting, the Board authorized the execution of an agreement with Voit Real Estate Services (Voit) to evaluate potential access points along East La Palma Avenue for constructing a bridge over the SAR to connect to the District's parcel, and to estimate the costs for acquiring these access rights. Staff will update the Committee.

### RECOMMENDATION

Informational.

### DISCUSSION/ANALYSIS

The District owns a 19-acre land parcel in Anaheim (APN 358-291-01) located west of Imperial Highway and south of the Santa Ana River (Property). The Property has access through a gate entrance on the southbound side of Imperial Highway, which passes over a portion of the Santa Ana River Trail. This trail and gate are maintained by the County of Orange, and the District has limited access to the Property for maintenance purposes, as outlined in a Grant Deed transfer in 1973 that conveyed portions of District land to Caltrans. Staff has contacted Caltrans regarding site access and the approval process for a potential tenant to obtain access rights from Imperial Highway to the Property, however this has been inconclusive.

The Property was previously leased by Sunny Slope to operate a wholesale container tree nursery and is currently vacant. At its November 16, 2022 meeting, the Board authorized staff to engage the services of Voit for six months to market the Property and seek other tenants as appropriate. Voit had a number of inquiries on the Property, however site access was and continues to be an issue for most potential tenants and their intended use. Although the agreement with Voit terminated on May 31, 2023, Voit continues to receive inquiries for the site.

Subsequently, with the Board's approval, staff engaged Adams Streeter Engineering to prepare a Site Development Analysis Report for the Property. In developing the report, District staff and Adams Streeter met with City of Anaheim and Caltrans staff to discuss

conceptual access to the Property, primarily by developing an intersection or roundabout on Imperial Highway.

City staff expressed concern that a roundabout would not be likely as Imperial Highway has eight lanes, far too many for a roundabout, and that it would likely extend out to the bridge over the SAR. Caltrans expressed concerns about the access-controlled nature of Imperial Highway, and that an intersection or roundabout could potentially degrade traffic circulation, cause delays, and would necessitate specific justification for any alterations to the existing standards. Caltrans suggested that OCWD staff explore an alternative option that did not include Imperial Highway, such as a bridge over the Santa Ana River. Subsequently, staff met with Adams Streeter and a traffic engineer familiar with projects in the City of Anaheim, Peter Pirzadeh of Pirzadeh and Associates, who confirmed Caltrans' concerns.

At its August 23 meeting, the Committee discussed the final Adams Streeter Report. Given the persistent access challenges to the Property for either leasing or development, Michael Hefner, of Voit, suggested exploring the construction of a bridge from East La Palma Avenue over the SAR. Mr. Hefner indicated that pursuing this option would likely involve acquiring commercial properties and/or securing the necessary Right-of-Way. Mr. Hefner also noted that under an agreement with the District, they could evaluate properties along East La Palma Avenue to identify potential access points to the SAR and estimate the costs for acquiring these access rights. The Committee directed staff to negotiate the terms of an agreement with Voit and report back with potential acquisition sites and estimated costs, which staff did at the September 20 Committee meeting.

At its October 2 Board meeting, the Board authorized the execution of an agreement with Voit to evaluate potential access options under a 6-month agreement at a rate of \$450 per hour, with a total not to exceed \$7,500.

Staff will update the Committee.

### **Summary of Prior Steps Taken:**

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October 2022	Sunnyslope Trees notifies the District that it will vacate property December 1, 2022
November	Voit hired to market the property for lease
December	Sunnyslope vacated the property
<hr/>	
May 2023	Agreement approved with Adams Streeter for Site Development analysis. Agreement with Voit terminated May 31
June	Adams Streeter began work on boundaries and aerial survey of the property.
July	Adams Streeter continues working on boundaries – seeking clarification from Title Company
October	Title Company revises Preliminary Title Report (PTR) – provides update to boundary and ownership

November	Adams Streeter revising aerial survey of property Title Company revises Preliminary Title Report (PTR) – provide another update to boundary and ownership (clarified overlapping boundaries)  Meeting with City of Anaheim staff to discuss potential access options
January 2024	Letter sent to Interim Caltrans Director requesting meeting to discuss Property access.
February	Reached out to Assemblyperson Chen and State Senator Chin’s offices for assistance in meeting with Caltrans.
March	Letter received from Caltrans Director Lan Zhou
April	Staff met with Caltrans to discuss letter received from Caltrans Director Lan Zhou and specifically about conceptual ideas for accessing the property
May	Staff review roundabout option with Adams Streeter and traffic engineer Pirzadeh and Associates
July	Draft Site Development Analysis from Adams Streeter
August	Final Site Development Analysis from Adams Streeter
September	Proposal from Voit to evaluate potential access options
October	Board approval to execute agreement with Voit to evaluate potential access options

### **PRIOR RELEVANT BOARD ACTION(S)**

10/02/2024, R24-10-xx, Approve and authorize execution of an Agreement with Voit Real Estate Services, exploring bridge access options to the Imperial Highway Property for 6-month term, at a rate of \$450 per hour, with a total cost not to exceed \$7,500.

5/17/2023, R23-05-61: Authorize the General Manager to negotiate and execute an agreement with Adams Streeter to prepare a Site Development Analysis of the District’s Imperial Highway property to include 1) development of key information about the Property, and 2) development of high-level conceptual access options to the Property, meet with Caltrans and City of Anaheim staff to review and solicit feedback regarding the Property access concepts; at a cost not to exceed \$73,550

3/15/2023, M23-33: Authorize staff to engage an engineering firm to provide conceptual cost estimates for the access options and to develop key information about the Property

11/16/2022, M22-116: Authorize staff to engage the services of Voit Real Estate Services to market the property being vacated by Sunny Slope Tree Farm for Lease

# LOCATION MAP



K:\GIS\GISDataStore\OCWD\Property\Management\DanP\MXD\SunnySlopeTreeFarm\_APN358-291-01.mxd (5/5/2022)



-  OCWD Owned Parcel (APN 358-291-01)
-  Sunny Slope Tree Farm Leased Area

Sunny Slope Tree Farm Co.  
OCWD Lease APN 358-291-01

SOURCE: OCWD (05/2022); OCPW (2021)



## AGENDA ITEM SUBMITTAL

**Meeting Date:** October 25, 2024

**To:** Property Management Committee  
Board of Directors

**From:** John Kennedy

**Staff Contact:** K. O'Toole / L. Haney

**Budgeted:** N/A

**Budget Amount:** N/A

**Cost Estimate:** N/A

**Funding Source:** N/A

**Program/Line Item No.:** N/A

**General Counsel Approval:** N/A

**Engineers/Feasibility Report:** N/A

**CEQA Compliance:** N/A

**Subject: STATUS UPDATE ON PLANNING OF IN-PLACE REMEDIATION FOR  
THE PRADO LEAD REMEDIATION PROJECT**

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### SUMMARY

The District is working with the Department of Toxic Substances Control (DTSC) to address soil contamination at former shooting areas at Pigeon Hill and the Former Clay Target Range (FCTR) in Prado Basin. The Board directed staff to pursue In-Place Remediation and approved an Updated Scope of Work and Budget to complete the Planning of this project. Staff will update the committee.

### RECOMMENDATION

Informational

### DISCUSSION/ANALYSIS

OCWD leases property in Prado Basin for hunting and shooting related activities. Areas formerly used for shooting related activities are known to be contaminated with residual lead shot, lead in soil and polycyclic aromatic hydrocarbons (PAHs) contained in clay targets. At the Property Committee in April of 2024, the Board directed staff to pursue In-Place Remediation with a corrective action management unit (CAMU) at the FCTR and soil capping at Pigeon Hill.

In July, the Committee approved an updated scope of work and budget with AECOM to complete the planning phase of the project. This includes development of a remedial action plan, CEQA documentation, geotechnical studies and CAMU designs.

- AECOM has completed a Draft CEQA Project Description that is being reviewed by DTSC. Once concurrence from DTSC is received, CEQA Technical Studies can commence.
- Staff have been working with DTSC to update the Community Profile. The development of a community profile is a DTSC remediation project requirement and will inform how public notifications and meetings will be conducted.

- AECOM and staff are preparing for the Geotechnical Studies which are anticipated to occur in November. A site visit was completed to assess if road conditions, and vertical clearances were adequate to allow safe access.
- A purchase order with Carlson Strategic Land Solutions (Carlson) has been completed and Carlson is evaluating the FCTR site to provide a recommendation for the ideal CAMU location.

A verbal update on the Project will be provided to the Committee.

## **PRIOR RELEVANT BOARD ACTIONS**

8/7/2024, R24-8-92 Authorize execution of Amendment #9 to Agreement No.1321 with AECOM in the amount of \$445,989 to complete the Remedial Action Plan, Initial Study and Mitigated Negative Declaration (IS/MND) for CEQA compliance and conduct the remedial design for the In-Place Remediation, including conducting a supporting geotechnical study and vertical profile soil sampling.

9/7/2022,R22-9-123 - 1) Authorize the General Manager to negotiate and execute Amendment No. 1 to the District's agreement with the Department of Toxic Substances Control Authorize to update the scope of work for preparation of the Remedial Action Plan, DTSC's Community Participation process, and revise the boundaries of the site; Authorize preparation of a Remedial Action Plan for the remediation of the Former Clay Target Range and Pigeon Hills area; and Approve and authorize execution of Amendment No. 7 to Agreement No. 1321 with AECOM to prepare a Remedial Action Plan for the Former Clay Target Range and Pigeon Hill area for an amount not to exceed \$155,048

6/1/2022, R22-6-67 - 1) Identify Alternative 4 (waste consolidation at Pigeon Hill site) with Land Use Scenario C (unrestricted land use at entire Former Clay Target Range site) as the tentatively identified preferred remedy, subject to completion of environmental documentation; and 2) Approve and authorize execution of Amendment No. 6 to Agreement No. 1321 with AECOM to prepare an Initial Study/Mitigated Negative Declaration for the former Prado shooting areas Pigeon Hill and Former Clay Target Range for an amount not to exceed \$94,128

9/15/2021, R21-9-143 - Approve and authorize execution of Amendment No. 5 to Agreement No. 1321 with AECOM to prepare an updated RI/FS for the former Prado shooting areas for an amount not to exceed \$87,998.

12/16/2020, R20-12-165 - Authorize approval of Amendment No.4 to Agreement No. 1321 with AECOM to conduct additional field sampling for an amount not to exceed \$74,411; authorize reimbursement for Department of Toxic Substances Control oversight expenses for the period from July 1, 2020 to June 30, 2021 for an amount not to exceed \$62,752

5/6/2020, R20-5-55 - Approving Amendment No. 3 to Agreement No. 1321 with AECOM to support a Supplemental Remedial Investigation, Focused Remedial Investigation/Feasibility Study and Remedial Action Plan for the Prado Shooting Areas for an amount not to exceed \$215,937.

9/18/19, M19-122 - Authorize \$67,068 additional funding for finalization of the risk assessment and waste consolidation plan at the Prado Shooting Range to be paid as follows: DTSC \$42,268 and AECOM \$24,800.

10/7/2015, R15-10-141 - Authorize the General Manager to finalize negotiations and execute an Agreement with AECOM Technical Services Inc. for an amount not to exceed \$222,938 for a focused remedial investigation and feasibility study of the Prado shooting areas.

7/1/15, M15-104 - Authorize issuance of a revised Request for Proposals for a Focused Remedial Investigation & Feasibility Study of the Prado Shooting Areas (to include a 20-year and 30-year study period).

02/04/15, M15-22, Authorizing Board President to appoint Property ad hoc Committee to review issues related to Elaine Raahauge d.b.a. Mike Raahauge's Shooting Enterprises.



## AGENDA ITEM SUBMITTAL

**Meeting Date:** October 25, 2024

**To:** Property Management Committee/  
Board of Directors

**From:** John Kennedy

**Staff Contact:** B. Dosier/D. Park

**Budgeted:** N/A

**Budget Amount:** N/A

**Cost Estimate:** N/A

**Funding Source:** N/A

**Program/Line Item No.:** N/A

**General Counsel Approval:** N/A

**Engineers/Feasibility Report:** N/A

**CEQA Compliance:** N/A

**Subject: QUARTERLY REPORT ON LEASES AND PERMITS/LICENSES FOR  
THE PERIOD ENDING SEPTEMBER 30, 2024**

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### SUMMARY

Attached for Board review is the Quarterly Report on Leases and Permits/Licenses for the period of July 1, 2024 to September 30, 2024.

Attachment: Summary Report of Leases & Permits/Licenses ending September 30, 2024

### RECOMMENDATION

Informational

### BACKGROUND/ANALYSIS

The District has approximately 933 acres of land under 16 leases and 19 permits/licenses.

#### 3rd QUARTER RENT COMPARISON

3rd Qtr. 2024	3rd Qtr. 2023	Increase/(Decrease) 3 <sup>rd</sup> Qtr. 2024 vs. 3 <sup>rd</sup> Qtr. 2023	Percentage Increase/(Decrease) 3 <sup>rd</sup> Qtr. 2024 vs. 3 <sup>rd</sup> Qtr. 2023
\$594,190	\$414,035	\$180,155	43.51%

#### YEAR TO DATE RENT COMPARISON

Year to Date 2024	Year to Date 2023	Increase/(Decrease) YTD 2024 compared to 2023	Percentage Increase/(Decrease) YTD 2024 compared to 2023
\$1,461,951	\$1,238,487	\$223,464	18.04%

Note: The 2024 Q3 report reflects an increase of 43.51% year over year. This increase is primarily due to the early recording of the October 2024 rent from Mike Raahauge Shooting Enterprises (\$20,397), early rent payment from Raahauge Duck Hunting (\$40,867), late rent payments for August and September 2023 from Sandwood Enterprises (\$27,628), and the early recording of July 2023 rent from North American Recycling (\$76,770).

## **UPCOMING RENEWALS AND ACTIONS**

### **RENEWALS**

#### **2024**

##### **4th Quarter**

- No leases expire in the 4<sup>th</sup> Quarter

#### **2025**

##### **1st Quarter**

- No leases expire in the 1st Quarter

### **ACTIONS - Staff**

All Lessees and Permittees/Licensees are in full compliance with the terms of their lease/permit/license and all are current with their rent with the following exceptions:

- None

### **PROPERTY LICENSE AGREEMENT ISSUED BY GENERAL MANAGER IN 2024 YEAR-TO-DATE**

- None

**SUMMARY REPORT  
STATUS OF LEASES  
3rd QUARTER ENDED September 30, 2024**

Leases	Location	Monthly Rent	Annual Increase	3RD Quarter Rent Paid	Year to Date	Status of Rent	Lease Violations	Expiration Date	Acres	Use
Anaheim Adventure Aqua Park	High Season - April-October	\$7,409.90	CPI April	\$ 93,958.30	\$ 95,034.25	Current	None	02-28-30	13.200	Aquapark
Anaheim Adventure Aqua Park	Low Season - November - March	\$2,167.20	CPI April							
Anaheim, City of Well 58	Anaheim Lake	Flat Fee \$1.00			N/A	Current	None	03-31-61	0.380	Production Water Well
Anaheim, City of	Burris Basin	\$1.00/Annual			\$ 1.00	Current	None	01-31-31	14.000	Park
County of Orange, Integrated Waste Mgt.	Smith Basin	Reports			N/A	Current	None	Automatic Annual Renewal	0.010	Monitoring wells for Reeve's Pit (executed 12/12/1996)
Corona Rec. Inc., Doug Elliott	Warner Basin	5% of Gross Receipts or \$8,248.92/mo.	CPI October	\$ 46,582.45	\$ 125,681.95	Current	None	09-30-26	128.150	Fishing concession.
North American Recycling & Crushing, LLC	Huckleberry Pond	\$79,073.73	3% April1	\$ 237,221.19	\$ 707,057.33	Current	None	03-31-27	5.650	Concrete/Asphalt crushing.
NSM Golf, LLC	Burris Pit	\$10,418.48	CPI October	\$ 31,557.58	\$ 94,068.46	Current	None	09-30-26	15.000	Golf driving range - 5 year option.
Harvest Landscape Enterprises, Inc.	South of Lincoln Ave.	\$2,237.90	CPI April 1	\$ 4,475.80	\$ 17,682.43	Current	None	03-31-27	3.600	Container nursery.
Montoya Enterprises Inc. - Nursery	Santiago Basins	\$1,724.00	Fixed April 1	\$ 5,172.00	\$ 15,416.00	Current	None	03-31-29	2.600	Container nursery.
Newport Beach, City of	Seawater Pipeline	Flat Fee \$1			\$ -	Current	None	09-22-47		
Prado Basin Duck Club (1)	Prado Basin - Lower Ponds	\$18,409/annual	3% July 1		\$ -	Current	None	06-30-25	66.000	John Kelly Astor - Duck Hunting Concession
Raahauge Shooting Enterprises - Ducks (1)	Prado	Flat Fee \$82,432	5% July 1	\$ 43,277.00	\$ 43,277.00	Current	None	06-30-25	450.000	Duck hunting, Oct. to Jan. Sporting clays/trap & skeet shooting. No rent increase until May 1, 2019
Raahauge Shooting Enterprises - Range	Prado	\$19,612.78	CPI May 2021	\$ 81,589.16	\$ 200,834.86	Current	None	04-30-47	135.000	Hunter safety classes, dog kennels, raising of game birds.
Raahauge Shooting Enterprises - Pheasant	Prado	\$250/mo.	N/A	\$ 1,000.00	\$ 2,500.00	Current	None	04-30-47	110.000	
Sandwood Inc.	Batavia Street	\$13,622.47	CPI April 1	\$ 40,867.41	\$ 135,225.80	Current	None	03-31-29	2.600	Sandbagging/Firewood
Yorba Linda Water District (2)	Warner Basin	\$5,283.62 / year 2023	3% December		\$ -	Current	None	12-31-62	0.4224	Production Water Well 21 Original Rent: \$3,817 - 8/22/2012 - w/ 3% annual increase
<b>TOTAL FOR LEASES</b>				<b>\$ 585,700.89</b>	<b>\$ 1,436,779.08</b>				<b>933.412</b>	

NOTES:

1. Prado Basin Duck Hunting & Raahauge Duck Hunting - (Rent due 50% by October 15 and 50% by December 15).
2. YLWD rent due on Dec. 31 of each year.

**SUMMARY REPORT  
STATUS OF PERMITS/LICENSES  
3rd QUARTER ENDED September 30, 2024**

Permits/Licenses	Location	Monthly Rent	Annual Increase	3RD Quarter Rent Paid	Year to Date	Status of Rent	Permit/License Violations	Expiration Date	Acres	Use
Anaheim Model Airplane Club & Scamps	Foster-Huckleberry Pond	Comm. Svc.		N/A	N/A	Current	None	Mo. to Mo.	115.820	Model airplane flying area.
Anaheim, City of Well Maintenance	Anaheim Lake	Comm. Svc.		N/A	N/A	Current	None	Mo. to Mo.	0.230	Maintain wells and pipeline.
Anaheim, City of	Burriss Basin	N/A		N/A	N/A	Current	None	Year to Year		Pumphouse
Anaheim, City of	Anaheim Lake	Flat Fee \$1.00		One-time fee paid 01/3	\$ -	Current	None	09-30-61		Drain pipe Rio Vista Res.
Anaheim, City of	Huckleberry Basin	Flat Fee \$1,148			\$ -	Current	None	10-28-39		Storm drain to Huckleberry
Boy Scouts of America, Troop 850	Santiago Bond Basin	Clean Premises			\$ -			Mo. to Mo.		Store 2 container trailers
CA Dept. of Forestry & Fire Protection	Prado - Highway 71	Fire Protection			N/A	Current	None	Mo. to Mo.		Cut fire break along fence - Highway 71.
Inland Empire Utility District	Prado Basin	WQ Report		\$ -	N/A	Current	None	03-31-34		Monitoring will site
Orange, City of	Orange Reservoir No. 10	N/A		\$ -	N/A	Current	None	05-31-34		Antenna on Reservoir No. 10
OC Transportation Authority (OCTA)	Deep Well #5	N/A		\$ -	\$ -					Temporary construction easement for the District's Deep Well #5 property located on the east side of Pacific Street at Spencer Ave in Fountain Valley Cellular Comm. Relay Site
SCE & (formerly Royal Street Communications) T-Mobile (ATS) (1)	Riverdale Avenue, Orange	\$1,110.20	CPI November 1	\$ 3,330.60	\$ 9,991.80	Current	None	11-13-27		ATS contract renews with T-Mobile's renewal
Southern California Edison Co. (2)	Anaheim Lake	\$802.44 + CPI Annual			\$ 851.30	Current	None	02-28-38		Relocate Power Pole
Serrano Irrigation District	Santiago Basin	Conj. well site #4		\$ -	N/A	Current	None	Annual Renewal	0.220	Conjunctive use well. R90-10-210 / orig exp: 7-1-10
T2 Utility Engineers, Inc	Burriss Basin	Flat Fee \$1,148			\$ 1,148	Current	None	8/12/2024		Potholes for Utility Data / Platinum Triangle
T.E. Roberts	Huckleberry Basin	\$1,337/mo		\$ 4,011.00	\$ 12,033.00	Current	None	1/31/2025		Staging area for City of Anaheim Pipeline work
Scott Donley Aris Helicopters	71 Hwy Property	Flat Fee \$1,148		\$ 1,148.00	\$ 1,148.00	Current	None	7/17/2029		Access to 71 Hwy property
University of So. Calif.	Fullerton Airport/ Other Locations	N/A		\$ -	N/A	Current	None	Mo. to Mo.		Measure seismic activity in monitoring wells.
Western Riverside Co. Regional Wastewater	Prado Basin	Copy of Reports		\$ -	N/A	Current	None	6-30-46		Monitoring wells - 3
Yorba Linda Water District	Warner Basin Complex	Flat Fee \$550.00		\$ -	N/A	Current	None	12-31-60		Discharge from well water 20.
<b>TOTAL FOR PERMITS/LICENSES</b>					<b>\$ 8,489.60</b>	<b>\$ 25,172.10</b>			<b>116.270</b>	
<b>TOTAL FOR LEASES &amp; PERMITS/LICENSES</b>					<b>\$ 594,190.49</b>	<b>\$ 1,461,951.18</b>			<b>1,049.682</b>	

NOTES:

1. Monthly Rent is 70% of \$1,266.77 which is adjusted by the CPI annually
2. SCE License Fee due on March 1 of each year