

CITY OF SAN DIEGO
USE AND OCCUPANCY PERMIT
San Diego County Water Authority CIP Project #C0603

THIS CITY OF SAN DIEGO USE AND OCCUPANCY PERMIT ("Permit") is entered into by and between **THE CITY OF SAN DIEGO**, a California municipal corporation ("CITY"), and **SAN DIEGO COUNTY WATER AUTHORITY**, a California public agency ("PERMITTEE"), to be effective when signed by CITY and PERMITTEE (collectively, the "Parties"), and approved by the San Diego City Attorney (the "Effective Date").

RECITALS

- A. CITY is the owner of that certain real property in San Diego County, California that comprises Mission Trails Regional Park (the "Property").
- B. PERMITTEE has requested permission from CITY to enter upon and temporarily occupy portions of the Property, consisting of portions of Assessor Parcel Numbers 371-010-25, 373-030-29, 373-040-12 and 373-485-33, to perform construction work associated with PERMITTEE's capital improvement project **C0603 - Mission Trails FRS II and FCF Project**, the ("Project"). In accordance with the Project and subject to the conditions of this Permit, PERMITTEE will construct an underground Flow Regulatory Structure ("FRS") and a Flow Control Facility ("FCF") and remove the remaining unnecessary vents on the Property.

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, and in consideration of the foregoing facts and circumstances, the Parties agree as follows:

- 1. **Definitions.** As used in this Permit, the following terms shall be defined as follows:
 - 1.1 **"Permit Area"** shall mean the portions of the Property, divided into five (5) separate, non-adjacent Temporary Construction Areas (TCAs) identified as TCA1, TCA2, TCA3, TCA5b, and TCA6, all generally depicted in Appendix A and described in Appendix B, attached and incorporated herein. The Permit Area shall also include two (2) separate, non-adjacent Slope Easement Areas (SEAs) identified as SEA4 and SEA5a, both generally depicted in Appendix A and described in Appendix B, attached hereto and incorporated herein.
 - 1.2 **"Permit Use"** shall mean the non-exclusive use of the Permit Area to store equipment, stockpile materials, park vehicles, and perform grading and excavation activities associated with the Project. Upon PERMITTEE's completion of construction activity, the Permit Area will be planted, replanted and generally restored by PERMITTEE. All restoration activities undertaken within the Permit Area shall comply with all applicable environmental documents and Section 10 of this Permit.

1.3 **"PERMITTEE's Address for Notices" shall be:**

SAN DIEGO COUNTY WATER AUTHORITY
Attn: Gerard E. Reed, III
4677 Overland Avenue
San Diego, CA 92123

1.4 **"Term"** shall mean a period of two (2) years, commencing on January 1, 2020 ("Commencement Date") and expiring on December 31, 2022.

2. **Occupancy.** Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE and its officers, employees, agents and contractors to enter upon and occupy the Permit Area solely for the Permit Use.
3. **Use of Permit Area.** PERMITTEE may use the Permit Area solely for the Permit Use and for no other purpose whatsoever, without CITY's prior written consent in each instance.
4. **Permanent Slope Easement.** PERMITTEE agrees to acquire a non-exclusive Slope Easement from the CITY on the SEA4 and SEA5a portions of the Permit Area for continued maintenance of those sections and to replace the temporary rights granted hereunder, in substantially the form of Exhibit A. PERMITTEE further agrees to complete acquisition of said slope easements from the City without delay. Immediately upon recordation of said slope easements acquired by PERMITTEE as required by this Section, the temporary rights and obligations of the PERMITTEE for SEA4 and SEA5a granted hereunder will terminate.
5. **Governmental Approvals.** By entering into this Permit, neither CITY nor CITY's City Council is obligating itself to PERMITTEE or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.
6. **CITY's Consent, Discretion.** CITY's consent or approval under this Permit shall mean the written consent or approval of CITY's Mayor, or his or her designee ("Mayor"), unless otherwise expressly provided herein or required by law. CITY's discretionary acts hereunder shall be made in the Mayor's discretion, unless otherwise expressly provided for herein or required by law.
7. **Term.** The Term may be extended by written agreement of the Parties; however, the Term shall not exceed three (3) years unless authorized by the CITY's City Council.
8. **Revocable License.** This Permit is not a lease. It is a non-exclusive license to use CITY property, and may be revoked at will by CITY, in its sole discretion, (a) immediately upon written notice delivered to PERMITTEE if PERMITTEE breaches or defaults any of PERMITTEE's obligations under this Permit, or in case of an emergency; or (b) upon thirty

(30) business days prior written notice delivered to PERMITTEE if for CITY's convenience. CITY shall not be obligated for any burden or loss, financial or otherwise, which may be incurred by PERMITTEE as a result of such revocation or the termination of this Permit.

8.1 PERMITTEE's Waiver. PERMITTEE expressly waives any claim against the CITY and its elected officials, officers, employees, representatives and agents for any burden, expense or loss which PERMITTEE incurs because of CITY's revocation or termination of this Permit.

9. No Holdover. If PERMITTEE continues to occupy the Permit Area after the expiration or earlier termination of this Permit, such occupancy shall neither constitute a renewal or extension of this Permit, nor give PERMITTEE any rights in or to the Permit Area. If PERMITTEE continues to use or occupy the Permit Area after the expiration or earlier termination of this Permit, CITY may demand and receive from PERMITTEE rent for the Permit Area, calculated on a per diem basis, using up to two (2) times the fair market rental rate that could be charged for the use of the Permit Area, said rate to be determined, as of the date of the expiration or earlier termination of this Permit, by a qualified CITY employee, the selection of whom shall be in CITY's sole discretion. CITY's acceptance of such rent shall neither constitute a renewal or extension of this Permit, nor give PERMITTEE any rights in or to the Permit Area.
10. Restoration of Permit Area. PERMITTEE shall be responsible for any damages and/or negative impacts directly associated with PERMITTEE's use of the Permit Area. Except as otherwise prohibited in this Permit, prior to the expiration or as soon as practicable after termination of this Permit, PERMITTEE shall mitigate any such damages and/or negative impacts and restore the Permit Area to its condition as of the Effective Date of this Permit and in accordance with Appendix C.
11. Superior Interests. This Permit is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements and rights-of-way pertaining to the Permit Area, whether or not of record. PERMITTEE shall obtain all licenses, permits and agreements from such third parties as may be or become necessary or reasonably advisable to allow its use of the Permit Area, relative to any such superior interest. If PERMITTEE's use of the Permit Area is or becomes inconsistent or incompatible with a preexisting, superior interest, PERMITTEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.
12. Processing Fee. CITY requires a one-time, non-refundable permit processing fee in the amount of Nine Hundred Eighty Dollars (\$980.00). PERMITTEE shall pay the Processing Fee to CITY upon execution of this Permit.
13. Rent. PERMITTEE shall pay monetary consideration to CITY, in an amount of Four Thousand Five Hundred Dollars (\$4,500) for the Term of the Permit within thirty (30) days

of the Effective Date. All payments to be paid by PERMITTEE under this Permit shall be made payable to "City Treasurer" and be mailed or hand delivered with an invoice to:

San Diego City Treasurer
P.O. Box 129030
San Diego, CA 92112-9030

Office of the City Treasurer
Civic Center Plaza
1200 Third Avenue, First Floor
San Diego, CA 92101

14. Maintenance of the Permit Area. As it relates to PERMITTEE's actual use and activities, PERMITTEE shall, at PERMITTEE's sole cost and expense and to CITY's satisfaction, maintain the Permit Area in good order and repair and in a safe, healthy and sanitary condition during the term of this Permit. CITY shall not be required to make any improvements or repairs to the Permit Area. PERMITTEE and its officers, employees, agents and contractors shall not deposit any rubbish, debris, litter or other item that is not necessary for the approved Permit Use, at any time on the Permit Area. PERMITTEE shall immediately notify CITY of any rubbish, debris, litter or any other condition which affects the safety, health or sanitation of the Permit Area.
15. Inspection. CITY, upon reasonable notice to PERMITTEE may enter and inspect the Permit Area.
16. Improvements/Alterations. Except as specifically authorized by this Permit, PERMITTEE shall not construct any improvements, structures or installations on the Permit Area, and shall not alter the Permit Area without the express written consent of CITY in its proprietary capacity and without obtaining all other applicable governmental approvals. PERMITTEE may install temporary construction fencing around the perimeter of each individual portion of the Permit Area as depicted in Appendix A. Except as required by law, CITY shall not be obligated to make any repair or assume any expense for any improvements or alterations to the Permit Area.
17. Insurance. PERMITTEE shall not begin operating under the Permit until it has: (i) obtained, and provided to CITY, insurance certificates reflecting evidence of all insurance as required in Section 17.2; however, CITY reserves the right to request, and PERMITTEE shall submit, copies of any policy upon reasonable request by CITY; (ii) obtained CITY approval of each company or companies as required in Section 17.4; and (iii) confirmed that all policies contain the specific provisions and endorsements as required in this Section.
 - 17.1 PERMITTEE's liabilities, including but not limited to PERMITTEE's indemnity obligations, under the Permit, shall not be deemed limited in any way to the insurance coverage required herein. Except as provided for under California law, all policies of insurance required hereunder must provide that CITY is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of the Permit and PERMITTEE's failure to maintain or renew coverage or to provide evidence of renewal during the term of the Permit may be treated as a material breach of contract by CITY. Further, PERMITTEE

shall not modify any policy or endorsement thereto which increases CITY's exposure to loss for the term of the Permit.

17.2 Types of Insurance. At all times during the Term, the PERMITTEE shall maintain insurance coverage and shall require PERMITTEE's contractors and subcontractors conducting work on the Permit Area to maintain insurance coverage as follows:

17.2.1 Commercial General Liability. Commercial General Liability (CGL) Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$2 million per occurrence and subject to an annual aggregate of \$4 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

17.2.2 Commercial Automobile Liability. For all of PERMITTEE's automobiles including owned, hired and non-owned automobiles, PERMITTEE shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

17.2.3 Workers' Compensation. For all of PERMITTEE's employees who are subject to the Permit and to the extent required by the applicable state or federal law, PERMITTEE shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and PERMITTEE shall provide an endorsement that the insurer waives the right of subrogation against CITY and its respective elected officials, officers, employees, agents and representatives.

17.3 Deductibles. All deductibles on any policy shall be the responsibility of PERMITTEE and shall be disclosed to CITY at the time the evidence of insurance is provided.

17.4 Acceptability of Insurers. Except for the State Compensation Insurance Fund, all insurance required by the Permit shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by CITY. CITY will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

17.5 Modification. To assure protection from and against the kind and extent of risk existing with the Allowed Uses, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to the Allowed Uses.

17.6 Accident Reports. PERMITTEE shall immediately report to CITY any accident causing property damage or injury to persons on the Premises or otherwise related to the Permit Use. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses and other pertinent information.

17.7 Required Endorsements. The following endorsements to the policies of insurance are required to be provided to CITY before any operations are initiated under the Permit.

17.7.1 Commercial General Liability Insurance Endorsements

17.7.1.1 ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (i) ongoing operations performed by you or on your behalf, (ii) your products, (iii) your work, including but not limited to your completed operations performed by you or on your behalf, or (iv) premises owned, leased, controlled or used by you.

17.7.1.2 PRIMARY AND NON-CONTRIBUTORY COVERAGE. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the CITY of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of PERMITTEE's insurance and shall not contribute to it.

17.7.2 Automobile Liability Insurance Endorsements

17.7.2.1 ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with

respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of PERMITTEE.

17.7.3 Worker's Compensation Insurance Endorsements

17.7.3.1 Waiver of Subrogation. The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against CITY and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for CITY.

- 18. Subcontractors' Insurance and Indemnification of CITY.** Unless PERMITTEE's insurance covers work performed by all of PERMITTEE's subcontractors working on the Project or in the Permit Area, PERMITTEE shall require PERMITTEE's subcontractors to indemnify the CITY and to maintain insurance coverage to the same extent that PERMITTEE is required to indemnify the CITY and maintain insurance coverage pursuant to Section 17 herein, including all obligations to provide documentation and all of the endorsements set forth in Section 17, including naming the City of San Diego and its respective elected officials, officers, employees, agents and representatives as an Additional Insured in each insurance policy.
- 19. Indemnification & Hold Harmless.** PERMITTEE shall protect, defend, indemnify and hold CITY and its elected officials, officers, employees, representatives and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE's officers, employees, invitees, guests, agents or contractors, which arise out of or are in any manner directly or indirectly connected with PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area, and all expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that PERMITTEE's duty to indemnify and hold harmless shall not include any established liability arising from the sole negligence or intentional misconduct of CITY and its elected officials, officers, employees, representatives and agents. CITY may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, PERMITTEE shall pay all of the costs related thereto, including reasonable attorney's fees and costs.
- 20. Compliance with Laws.** PERMITTEE shall at all times in its use, occupancy, and maintenance of the Permit Area comply with all applicable laws, rules and regulations and direction by competent governmental authorities, and all at PERMITTEE's sole cost and expense. At least annually, PERMITTEE shall deliver to CITY copies of all documentary evidence of such compliance received by or otherwise available to PERMITTEE.
- 21. California Public Records Act.** CITY shall determine, in its sole discretion, whether information provided by PERMITTEE pursuant to this Permit is or is not a public record subject to disclosure under the California Public Records Act (CPRA). PERMITTEE shall

hold CITY and its elected officials, officers and employees harmless for CITY's disclosure of any such information in response to a request for information under the CPRA.

21. No Discrimination. PERMITTEE shall not discriminate in any manner against any person on account of race, color, religion, gender, gender expression, gender identity, sexual orientation, medical status, national origin, age, marital status or disability in PERMITTEE's use of the Permit Area, including without limitation the provision of goods, services, facilities, privileges, advantages and accommodations, and the hiring and retention of employees and contractors.
22. Equal Opportunity. PERMITTEE shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375 and 12086; the California Fair Employment Practices Act; and all other related and applicable federal and state laws and regulations. PERMITTEE shall not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition or place of birth. PERMITTEE shall cause the foregoing provisions to be inserted in all of PERMITTEE's contracts for work related to this Permit so that such provisions will be binding upon each of PERMITTEE's contractors. PERMITTEE shall fully cooperate with any investigation conducted by CITY pursuant to CITY's Nondiscrimination in Contracting Ordinance (i.e., San Diego Municipal Code sections 22.3501-22.3517, as amended from time to time), and upon CITY's request PERMITTEE shall submit a current Workforce Report. PERMITTEE acknowledges that failure to comply with the requirements of this section and/or submitting false information in response to these requirements may result in termination of this Permit and debarment from participating in CITY contracts for a period of not less than one (1) year.
23. Equal Benefits. PERMITTEE shall comply with San Diego Municipal Code sections 22.4301-22.4308, which require applicable parties to offer the same employment benefits to employees with spouses and employees with domestic partners. PERMITTEE shall certify that it will maintain such equal benefits throughout the term of this Permit. PERMITTEE's failure to maintain equal benefits shall be a material breach of this Permit.
24. Disabled Access Compliance. PERMITTEE shall comply with Title 24 of the California Code of Regulations (i.e., the "Building Code"); the Americans with Disabilities Act of 1990 ("ADA"); and any other applicable state and federal laws and regulations enacted protecting the rights of people with disabilities. PERMITTEE's compliance shall include without limitation the following:
 - 24.1 PERMITTEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs and termination of employment;

- 24.2 No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs or activities of PERMITTEE;
- 24.3 PERMITTEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site;
- 24.4 Where required by law, PERMITTEE shall, at PERMITTEE's sole cost and in conformance with all applicable building codes, comply with applicable disabled-access requirements by making accessible any areas of the Permit Area which deny access to disabled persons; and
- 24.5 PERMITTEE shall include language in each subcontractor agreement, if any, indicating the subcontractors' agreement to abide by the foregoing provisions.
- 24.6 PERMITTEE and each of its subcontractors, if any, shall be individually responsible for their own ADA compliance program. PERMITTEE's failure to comply with the above requirements and/or submitting false information in response to those requirements shall be a default under this Permit.
25. CITY Employee Participation Policy. CITY may unilaterally and immediately terminate this Permit if PERMITTEE employs an individual who, within the twelve (12) months immediately preceding such employment did, in their capacity as a CITY officer or employee, participate in negotiations with or otherwise have an influence on a recommendation made to the San Diego CITY Council related to the selection of PERMITTEE for this Permit. It is not the intent of this policy that these provisions apply to members of the CITY Council.
26. PERMITTEE's Risk. PERMITTEE shall bear all risks and liability arising out of or in any manner directly or indirectly connected with PERMITTEE's use or occupancy of the Permit Area and any damages to the improvements on, under or in the vicinity of the Permit Area resulting directly or indirectly thereby.
27. No Nuisance. PERMITTEE shall not use the Permit Area in any manner which creates a nuisance or unreasonably disturbs the quiet enjoyment of persons in the surrounding area.
28. Assignment and Sublicense. PERMITTEE shall not assign or sublicense any rights granted by this Permit or any interest in this Permit without CITY's written consent in each instance. Any assignment by operation of law shall automatically terminate this Permit.
29. Signs. PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising without CITY's prior written consent. If any such unauthorized item is found on the Permit Area, PERMITTEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter summarily remove the item at PERMITTEE's cost.

30. Encumbrances. PERMITTEE shall keep the Permit Area free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with PERMITTEE's use or occupancy of the Permit Area. PERMITTEE shall protect, defend, indemnify and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without limitation all attorney fees and costs relating to or charged against the Permit Area, including without limitation PERMITTEE's failure or the failure of any contractor or subcontractor hired by PERMITTEE to pay any person or persons entitled to lien or encumber the Permit Area pursuant to the California Civil Code.
31. Taxes. PERMITTEE shall pay, before delinquency, all taxes, assessments and fees assessed or levied upon PERMITTEE, including the land and any buildings, structures, machinery, equipment, appliances or other improvements or property of any nature whatsoever erected, installed or maintained by PERMITTEE, or levied by reason of PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area, including without limitation licensing and permitting costs and fees. PERMITTEE acknowledges that this Permit may create a possessory interest subject to property taxation, and that PERMITTEE may be subject to the payment of taxes levied on that interest. PERMITTEE shall pay all such possessory interest taxes. PERMITTEE's payment for such taxes, fees and assessments shall not reduce any payment due CITY.
32. Hazardous Substances. PERMITTEE shall not allow the illegal installation, storage, utilization, generation, sale or release of Hazardous Substance or otherwise regulated substances in, on, under or from the Permit Area. PERMITTEE and PERMITTEE's agents and contractors shall not install, store, utilize, generate or sell any Hazardous Substance on the Permit Area without CITY's prior written consent. PERMITTEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.
- 32.1 Release. For all purposes of this Permit, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a hazardous substance.
- 32.2 Hazardous Substance. For all purposes of this Permit, "Hazardous Substance" shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.

- 32.3 Remediation. If PERMITTEE's occupancy, use, development, maintenance or restoration of the Permit Area ("PERMITTEE's Operations") results in a release of a Hazardous Substance, PERMITTEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Permit Area, and in accordance with all applicable laws, rules and regulations of governmental authorities.
- 32.4 Removal. If PERMITTEE or PERMITTEE's contractor or agent has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Permit Area, PERMITTEE and/or PERMITTEE's contractor or agent shall remove all Hazardous Substances in any type of container, equipment or device from the Permit Area immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Permit Area and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Permit Area. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this provision.
- 32.5 Indemnity. PERMITTEE shall protect, defend, indemnify and hold CITY harmless from any and all claims, costs and expenses related to environmental liabilities resulting from PERMITTEE's Operations, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 32.6 Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Permit Area, PERMITTEE shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. PERMITTEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Permit Area.
- 32.7 Environmental Assessment. Upon reasonable cause to believe that PERMITTEE's Operations resulted in any Hazardous Substance being released on, from or beneath the Permit Area, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant

registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE's sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE's Operations on, in, from or under the Permit Area, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by city, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Permit Area, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause, the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Permit Area and compliance with environmental laws and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefor.

33. Storm Water Pollution Prevention Program. PERMITTEE shall, at its own cost and expense, comply with the CITY's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the San Diego Municipal Code, as may be amended, and any and all applicable Minimum Best Management Practice requirements, as defined in the CITY's Jurisdictional Runoff Management Plan, in performing or delivering services at CITY owned, leased, or managed property, or in performance of services and activities on behalf of CITY regardless of location.
 - 33.1 PERMITTEE shall comply with the CITY's Jurisdictional Runoff Management Plan encompassing city-wide programs and activities designed to prevent and reduce storm water pollution within CITY boundaries as adopted by the CITY's CITY Council on July 1, 2015, via Resolution No. 309791, as may be amended.
 - 33.2 PERMITTEE shall comply with each CITY facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.
34. Prevailing Wages. PERMITTEE acknowledges that PERMITTEE is the awarding body pursuant to California Labor Code section 1722, for any contracts related to PERMITTEE's use of the Permit Area that may require the payment of prevailing wages pursuant to State law and/or San Diego Municipal Code section 22.3019. PERMITTEE agrees to comply with all laws related to the payment of prevailing wages on public works contracts, including without limitation the requirements contained in California Labor Code sections 1720-1861. PERMITTEE shall deliver to City, upon request, evidence of compliance with the State prevailing wage laws in form and content reasonably satisfactory to CITY.

35. Waiver. The property constituting the Permit Area is publicly owned and held in trust for the benefit of CITY's citizens. CITY's failure to insist upon the strict performance of any of PERMITTEE's obligations under this Permit, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. CITY's waiver of a default shall not be a waiver of any other default. Any waiver of a default must be in a writing executed by CITY to constitute a valid and binding waiver. CITY's delay or failure to exercise a right or seek a remedy shall not be deemed a waiver of that or any other right or remedy under this Permit, at law, or in equity. The exercise of any particular right or the use of any particular remedy for any default shall not waive the use of any other right or remedy for the same default or for another or later default. CITY's acceptance of any rents shall not be a waiver of any default preceding the rent payment. CITY's failure to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY may at any and all times require the cure of the default.
36. Cumulative Remedies. CITY's rights and remedies under this Permit are cumulative and shall not limit or otherwise waive or deny any of CITY's rights or remedies at law or in equity.
37. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.
38. Joint and Several Liability. If PERMITTEE is comprised of more than one person or legal entity, such persons and entities, and each of them, shall be jointly and severally liable for the performance of each and every obligation of PERMITTEE under this Permit.
39. No Affiliation. Nothing contained in this Permit shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity.
40. Entire Agreement. This Permit constitutes the entire agreement between the Parties and supersedes any and all prior understandings, representations, warranties and agreements between them pertaining to this Permit. Any modification, alteration or amendment of this Permit shall be in writing and signed by all the Parties hereto.
41. Counterparts. This Permit may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument.
42. Notices. Any notice required or permitted to be given under this Permit shall be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to PERMITTEE at PERMITTEE's Address for Notices, and to CITY as follows:

THE CITY OF SAN DIEGO
Attention: Director, Real Estate Assets Department

1200 Third Ave., Ste. 1700, MS-51A
San Diego, CA 92101

43. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity represents and warrants such entity is a valid, qualified corporation, limited liability company, partnership or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.
44. Acceptance of Permit Area. By signing this Permit, PERMITTEE represents and warrants that it has independently inspected the Permit Area and made all tests, investigations and observations necessary to satisfy itself as to the condition of the Permit Area and its suitability for the Permit Use. PERMITTEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the Permit Area or its suitability for the Permit Use, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations and observations of the Permit Area in entering into this Permit. PERMITTEE accepts the Permit Area in its current condition. PERMITTEE acknowledges and agrees that unless set forth in this Permit, CITY has no obligation to improve, modify, repair, replace, alter, secure, or otherwise develop the Permit Area at any time either prior to, on or after the Effective Date. PERMITTEE shall not hold CITY responsible for any defects in the Permit Area. PERMITTEE accepts and assumes all risk of harm to all persons and property, including without limitation PERMITTEE's employees, from any defects in the Permit Area, and shall be solely responsible therefor.

IN WITNESS WHEREOF, this Permit is executed to be effective as of the Effective Date.

THE CITY OF SAN DIEGO,
a California municipal corporation

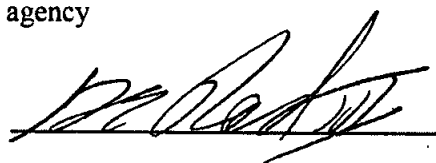
By: 

Printed Name: Cybele L. Thompson

Title: Director, Real Estate Assets Dept.

Date: 7/23/19

SAN DIEGO COUNTY WATER AUTHORITY,
a public agency

By: 

Printed Name: Gerard E. Reed, III

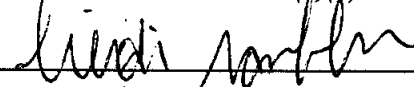
Title: Director of Engineering

Date: 7/22/19

Planning Department - Environmental Clearance:

This Use and Occupancy Permit between the City of San Diego and the San Diego County Water Authority is covered by the Final Environmental Impact Report for the Mission Trails Flow Regulatory Structure II, Pipeline Tunnel and Vent Demolition Project (SCH #2005041025), prepared by the San Diego County Water Authority as the Lead Agency, and certified by the San Diego County Water Authority Board of Directors on August 24, 2006. The activity described in this Use and Occupancy Permit is adequately addressed in the prior environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental document adequately covers this activity as part of the previously approved project, this activity is not a separate project for the purposes of CEQA review pursuant to CEQA Guidelines Section 15060(e)(3) and 15378(c).

Date: 7/23/19

By: 

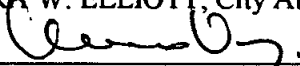
Printed Name: Alyssa Muto

Title: Deputy Director

Dept: Environment & Mobility Planning Division

Approved as to form this 29 day of July, 2019.

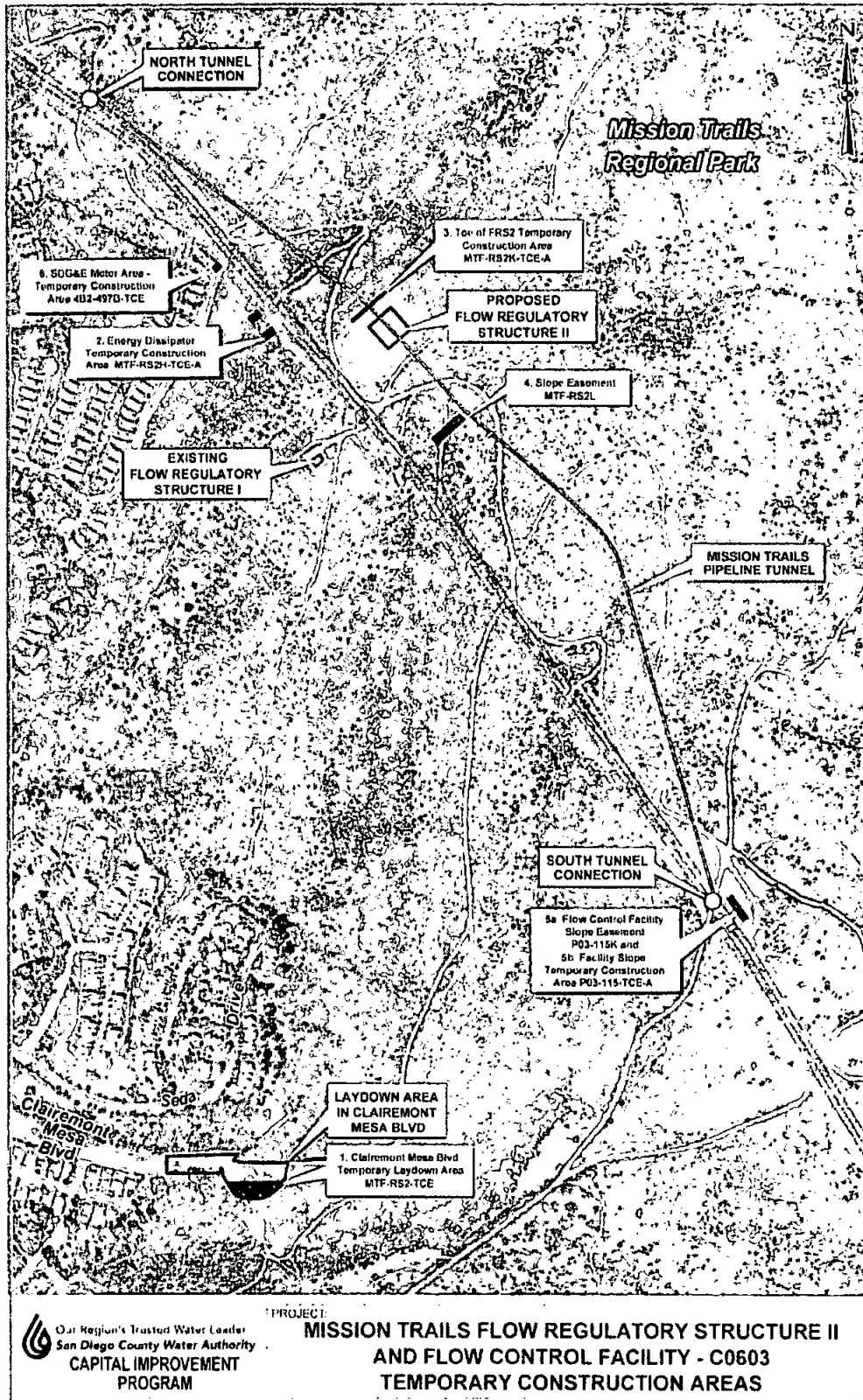
MARA W. ELLIOTT, City Attorney

By: 

Printed Name: Marco A. Verdugo

Title: Deputy City Attorney

Appendix A



APPENDIX B

Work Site #	Mother Parcel		SDCWA Easement/ROW #	TYPE		Size
	APN	Owner		Easement	TCA	
TCA1	373-030-29	City - Site M701RO	MTF-RS2-TCE (Laydown Area)		x	34,021
TCA2	371-010-25	City - Site M701RO	MTF-RS2H-TCE-A (Dissipater)		x	3,600
TCA3	371-010-25	City - Site M701RO	MTF-RS2K-TCE-A (FRS II)		x	3,865
SEA4	371-010-25	City - Site M701RO	MTF-RS2L (FRS II)	Slope		5,465
SEA5a	373-040-12	City - Site M701RO	P03-115K (FCF)	Slope		3,914
TCA5b	373-040-12	City - Site M701RO	P03-115-TCE-A (FCF)		x	9,266
TCA6	373-485-33	City - Site M607RO	4B2-497B-TCE (Utilities)		x	430

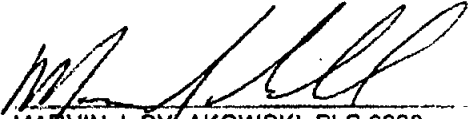
TCA1

EXHIBIT A
LEGAL DESCRIPTION
"TEMPORARY LAYDOWN AREA"
A.P.N. 373-030-29
SDCWA PARCEL MTF-RS2-TCE

THAT PORTION OF THE REFEREE'S PARTITION OF LOT 70 OF RANCHO MISSION OF SAN DIEGO, MADE IN SUPERIOR COURT CASE NO. 15191, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHEASTERLY CORNER OF LOT 404, ACCORDING TO MAP 7811, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 14, 1973 AS FILE NO. 73-346189, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, SAID POINT ALSO BEING IN THE SOUTHERLY LINE OF CLAIREMONT MESA BOULEVARD, DEDICATED BY DOCUMENT RECORDED MARCH 22, 1963 AS FILE/PAGE 50209, SHOWN FORMALLY AS BALBOA AVENUE SHOWN ON CITY OF SAN DIEGO STREET DEDICATION DRAWING 10600-6-D; THENCE EASTERLY ALONG THE EXTENSION OF THE SAID SOUTHERLY LINE OF CLAIREMONT MESA BOULEVARD, NORTH 86° 11' 09" EAST 33.00 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING EASTERLY ALONG SAID SOUTHERLY LINE, NORTH 86° 11' 09" EAST 331.00 FEET; THENCE LEAVING SAID SOUTHERLY LINE, SOUTH 35° 01' 30" WEST 161.00 FEET; THENCE SOUTH 83° 56' 59" WEST 164.00 FEET; THENCE NORTH 49° 47' 35" WEST 92.00 FEET; THENCE NORTH 3° 48' 51" WEST 67.87 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 0.781 ACRES MORE OR LESS


MARVIN J. SYLAKOWSKI, PLS 6998
EXPIRATION 9/30/19

8/30/18
DATE



C0603
MJS 8/30/18

EXHIBIT "B"

MAP 9280

APN
373-350-80

APN
373-030-28

RDS 20124

N

N.T.S

CLAIREMONT MESA BLVD.
(FORMALLY BALBOA AVE.)

PER F/P 50209 REC 3/22/63

P.O.B.

T.P.O.B.

LOT 404
MAP 7811

APN
373-294-25

200' SDG&E EASEMENT
PER DDC 20041227883
REC. 12-29-2004

APN
373-030-29

PARTITION OF LOT 70
OF RANCHO MISSION OF
SAN DIEGO, SCC 15191

TABLE

	BEARING	DISTANCE
1	N86°11'09"E	33.00'
2	N86°11'09"E	331.00'
3	S35°01'30"W	161.00'
4	S83°56'59"W	164.00'
5	N49°47'35"W	92.00'
6	N3°48'51"W	67.87'

SAN DIEGO COUNTY WATER AUTHORITY

TEMPORARY LAYDOWN AREA

AREA: ±0.781 ACRES

SDCWA PARCEL NO.:
MTF-RS2-TCE
(PROJECT: C0603)

VESTING:
CITY OF SAN DIEGO
(APN 373-030-29)

DRAWN BY: LEW CHECK BY: MJS 08/30/2018 SHT 1 OF 1

LEGEND:

 - DENOTES PROPOSED TEMPORARY LAYDOWN AREA

TCA2

EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION AREA
APN 371-010-25
(C0603 MTF-RS2H-TCE-A)

THAT PORTION OF LOT 73, RANCHO MISSION OF SAN DIEGO, ACCORDING TO PARTITION MAP THEREOF, MADE IN SUPERIOR COURT CASE 348 OF SAN DIEGO COUNTY, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AS MAP 330, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A 30.00 FOOT WIDE STRIP OF LAND, LYING NORTHWESTERLY AND CONTIGUOUS TO THE NORTHWESTERLY LINE OF THE SAN DIEGO COUNTY WATER AUTHORITY RIGHT OF WAY PARCEL MT-FRS2-H CONVEYED BY DOCUMENT RECORDED JULY 31, 2008 AS DOCUMENT NO. 2008-0410534, OFFICIAL RECORDS, AND SHOWN ON RECORD OF SURVEY 22805, RECORDED DECEMBER 4, 2017 AS FILE 2017-700046,

TOGETHER WITH A 30.00 FOOT WIDE STRIP OF LAND, LYING SOUTHEASTERLY AND CONTIGUOUS TO THE SOUTHEASTERLY LINE OF SAID SAN DIEGO COUNTY WATER AUTHORITY RIGHT OF WAY PARCEL MTF-RS2H

BOTH AS SHOWN ON "MISSION TRAILS FLOW REGULATORY STRUCTURE II AND FLOW CONTROL FACILITY" PLANS, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY WATER AUTHORITY AS PROJECT C0603, SPECIFICATION NO. 652.

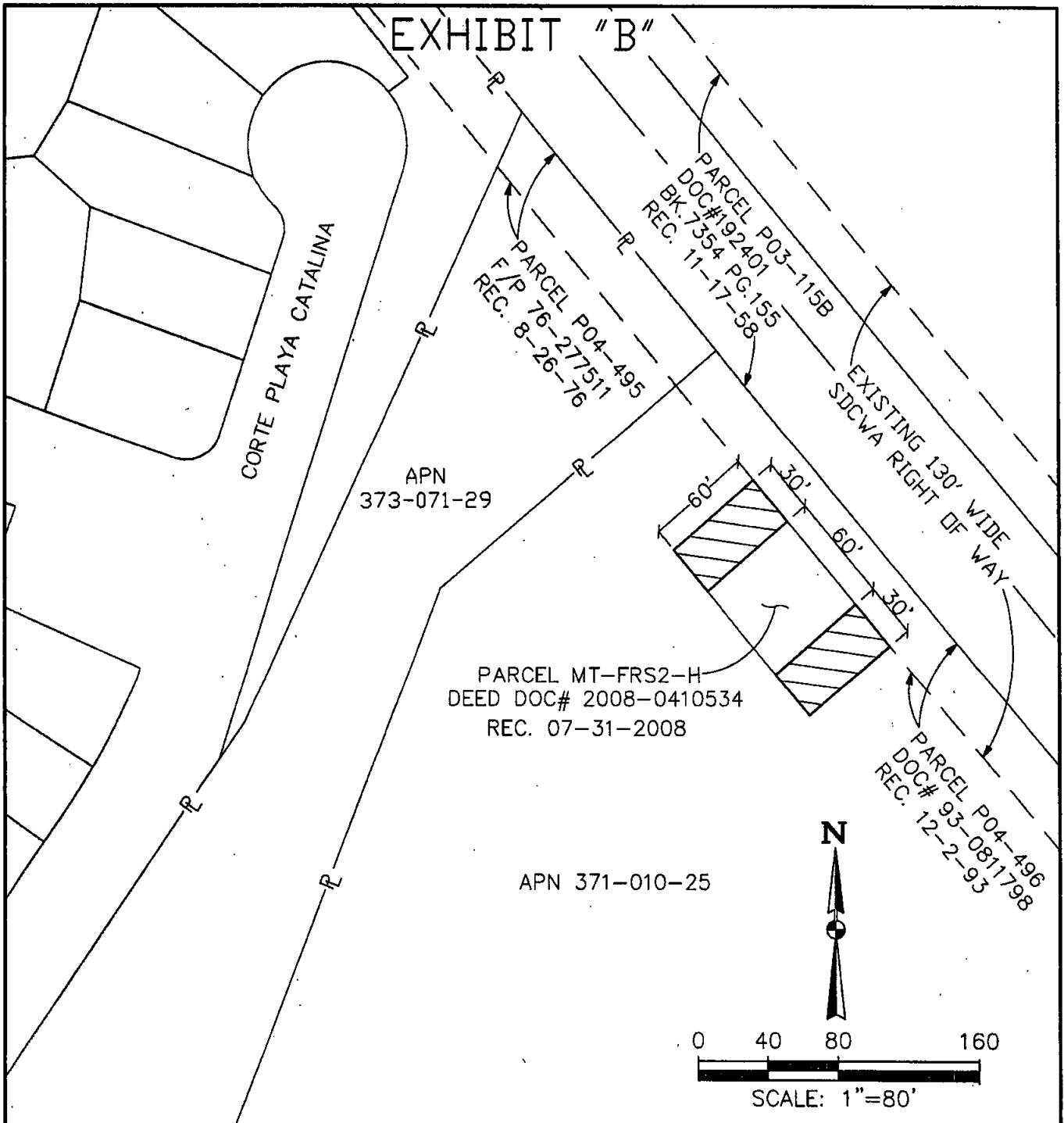
CONTAINING 3600 S.F. MORE OR LESS


MARVIN J. SYLAKOWSKI, PLS 6998 9/11/18
EXPIRATION 9/30/19 DATE



C0603
MJS 7/24/18

EXHIBIT "B"



LEGEND:

 - DENOTES PROPOSED TCE (±3600 SF)

SAN DIEGO COUNTY WATER AUTHORITY

MTF-RS2H-TCE-A

AREA: ±3600 SF

SDCWA PARCEL NO.:
MT-FRS2-H
(PROJECT: C0603)

VESTING:
CITY OF SAN DIEGO
(APN 371-010-25)

DRAWN BY: JPW CHECK BY: MJS

07/24/2018

SHT 1 OF 1

TCA3

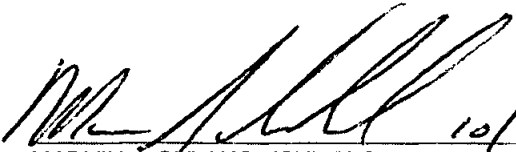
EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION AREA
APN 371-010-25
(MTF-RS2K-TCE A)

ALL THAT PORTION OF LOT 73, RANCHO MISSION OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE PARTITION MAP THEREOF, MADE IN SUPERIOR COURT CASE NO. 348 OF SAN DIEGO COUNTY, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AS MAP 330, DESCRIBED AS FOLLOWS.

COMMENCING AT THE MOST WESTERLY CORNER OF SAN DIEGO COUNTY WATER AUTHORITY PARCEL DESCRIBED IN DEED RECORDED OCTOBER 29, 2007 AS DOCUMENT 2007-0689173, IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY RECORDERS OFFICE, THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL, NORTH 49° 44' 24" EAST 93.00 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID NORTHWESTERLY LINE, NORTH 40°15'36" WEST 10.00 FEET; THENCE NORTH 49° 44' 24" EAST 450.00 FEET; THENCE SOUTH 40°15'36" EAST 10.00 FEET TO SAID NORTHWESTERLY LINE; THENCE ALONG SAID NORTHWESTERLY LINE, SOUTH 49° 44' 24" WEST 450.00 TO THE **TRUE POINT OF BEGINNING**.

EXCLUDING THEREFROM THAT PORTION OF THE SAN DIEGO COUNTY WATER AUTHORITY PARCEL MT-FRS2-B, DESCRIBED IN DEED RECORDED JULY 31, 2008 AS DOCUMENT 2008-0410533, IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY RECORDERS OFFICE.

CONTAINING 3,865 S.F. MORE OR LESS


MARVIN J. SYLAKOWSKI, PLS 6998 DATE 10/1/18
EXPIRATION 9/30/19

Q0603
LEW 9-10-18

EXHIBIT "B"

N

N.T.S

APN 371-010-25

DOC# 2008-0410533
REC. 07-31-2008
PARCEL MT-FRS2-B

62'

450.00'
855.00'
N 49° 44' 24" E

10'

DOC# 2007-0689173
REC. 10-29-2007
FINAL ORDER OF CONDEMNATION

MT-FRS2-K

POR. LOT 73
RANCHO MISSION
MAP NO. 330

APN 371-010-15

APN 371-010-26
MT-FRS2-J

P.O.C.
MOST WESTERLY CORNER
DOC. 2007-0689173

T.P.O.B.

93.00'

SDCWA RIGHT OF WAY

130'

LEGEND:



- DENOTES PROPOSED TEMPORARY
CONSTRUCTION AREA

SAN DIEGO COUNTY WATER AUTHORITY

TEMPORARY CONSTRUCTION AREA

AREA: ±3865 S.F.

SDCWA PARCEL NO.:
MTF-RS2K-TCE A
(PROJECT: C0603)

VESTING:
CITY OF SAN DIEGO
(APN 371-010-25)

DRAWN BY: LEW

CHECK BY: MJS

09/11/2018

SHT 1 OF 1

SEA4

EXHIBIT "A"
LEGAL DESCRIPTION
SLOPE AREA
APN 371-010-25
(MTF-RS2L)

ALL THAT PORTION OF LOT 73, RANCHO MISSION OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE PARTITION MAP THEREOF, MADE IN SUPERIOR COURT CASE NO. 348 OF SAN DIEGO COUNTY, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY AS MAP 330, DESCRIBED AS FOLLOWS.

COMMENCING AT THE MOST SOUTHERLY CORNER OF SAN DIEGO COUNTY WATER AUTHORITY PARCEL DESCRIBED IN DEED RECORDED JULY 31, 2008 AS DOCUMENT 2008-0410534, IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY RECORDERS OFFICE, THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL, NORTH 49° 50' 24" EAST 50.00 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID SOUTHEASTERLY LINE, SOUTH 40°09'36" EAST 40.00 FEET; THENCE NORTH 49° 50' 24" EAST 200.00 FEET; THENCE NORTH 40°09'36" WEST 40.00 FEET TO SAID SOUTHEASTERLY LINE; THENCE ALONG SAID SOUTHEASTERLY LINE, SOUTH 49° 50' 24" WEST 200.00 FEET TO THE **TRUE POINT OF BEGINNING**.

EXCLUDING THEREFROM THAT PORTION LYING WITHIN SAN DIEGO COUNTY WATER AUTHORITY PARCEL MT-FRS2-F, DESCRIBED IN DEED RECORDED JULY 31, 2008 AS DOCUMENT 2008-0410533, IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY RECORDERS OFFICE.

ALL AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF.

CONTAINING 5465 S.F. MORE OR LESS

 12/1/18
MARVIN J S LAKOWSKI, PLS 6998 DATE
EXPIRATION 9/30/19

Q0603
LEW 10-1-18

EXHIBIT "B"

POR. LOT 73
RANCHO MISSION
MAP NO. 330

APN 371-010-15



DOC# 2007-0689173
REC. 10-29-2007
FINAL ORDER OF CONDEMNATION
PARCEL MT-FRS2-K

DOC# 2008-0410532
REC. 07-31-2008
MT-FRS2-J
APN 371-010-26

DEED DOC# 2008-0410534
REC. 07-31-2008
PARCEL MT-FRS2-C

APN 371-010-25

DEED DOC# 2008-0410533
REC. 07-31-2008
PARCEL MT-FRS2-F

POR. LOT 73
RANCHO MISSION
MAP NO. 330

P.O.C.
MOST SOUTHERLY
CORNER DOC.
2008-0410534

T.P.O.B.

130'

SDCWA RIGHT OF WAY
SEE RDS 17956

LINE DATA

L1	S40°09'36"E	40.00'
L2	N49°50'24"E	200.00'
L3	N40°09'36"W	40.00'
L4	S49°50'24"W	200.00'

LEGEND:

- DENOTES PROPOSED SLOPE AREA

SAN DIEGO COUNTY WATER AUTHORITY

SLOPE AREA

AREA: ±5465 S.F.

SDCWA PARCEL NO.:
MTF-RS2L
(PROJECT: C0603)

VESTING:
CITY OF SAN DIEGO
(APN 371-010-25)

DRAWN BY: LEW CHECK BY: MJS 10/01/2018 SHT 1 OF 1

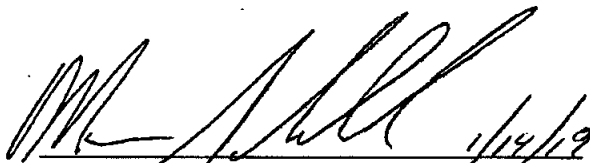
SEA5a

EXHIBIT "A"
LEGAL DESCRIPTION
SLOPE AREA
APN 373-040-12
(C0603 P03-115K)

THAT PORTION OF A FORMER PARCEL OF UNITED STATES GOVERNMENT LAND, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, PREVIOUSLY USED AS A MILITARY RESERVATION KNOWN AS CAMP ELLIOTT, NOW KNOWN AS MISSION TRAILS REGIONAL PARK, LOCATED WITHIN TOWNSHIP 15 SOUTH, RANGE 2 WEST, S.B.B.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 30.00 FOOT WIDE STRIP OF LAND, LYING NORTHEASTERLY AND CONTIGUOUS TO THE NORTHEASTERLY LINE OF THE SAN DIEGO COUNTY WATER AUTHORITY RIGHT OF WAY, CONVEYED BY DOCUMENT RECORDED NOVEMBER 17, 1958 IN BOOK 7354, PAGE 155, OFFICIAL RECORDS, AND SHOWN ON RECORD OF SURVEY 17956, RECORDED AUGUST 29, 2003 AS FILE 2003-1060429 IN BOOK OF RECORD OF SURVEY MAPS AT PAGE 17956, LYING BETWEEN ENGINEERS STATION 4197+60 AND ENGINEERS STATION 4198+90, AS SHOWN ON "MISSION TRAILS FLOW REGULATORY STRUCTURE II AND FLOW CONTROL FACILITY" PLANS, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY WATER AUTHORITY AS PROJECT C0603, SPECIFICATION NO. 652.

CONTAINING 3914 S.F. MORE OR LESS


MARVIN J. SYLAKOWSKI, PLS 6998 DATE
EXPIRATION 9/30/19



C0603
MJS 6/19/18
REV 9/6/18, 1/14/19

EXHIBIT "B"

N



N.T.S

DOC. 1993-0811798

REC. 12/2/93

DOC. 1993-0779545

REC. 11/19/1993

RANCHO MISSION

SCC 15191

LOT C

APN 373-040-21

RECORD
OF
SURVEY

SURVEY LINE

STA. 4197+00

APN 373-040-12

STA. 4197+60
17956

DOC. 1993-0811798

REC. 12/2/93

DOC. 1993-0779545

REC. 11/19/1993

APN 373-040-20

APN 373-040-21

MISSION TRAILS REGIONAL PARK
(FORMERLY CAMP ELLIOTT)

STA. 4198+90

PARCEL 115
PER BOOK 7354 PG 155
REC. 11/17/58

NORTHEASTERLY LINE OF
SDCWA RIGHT OF WAY

LEGEND:



- DENOTES PROPOSED SLOPE AREA

SAN DIEGO COUNTY
WATER AUTHORITY

SLOPE AREA

AREA: ±3914 S.F.

SDCWA PARCEL NO.:

P03-115K

(PROJECT: C0603)

VESTING:

CITY OF SAN DIEGO

(APN 373-040-12)

DRAWN BY: LEW

CHECK BY: MJS

01/14/2019

SHT 1 OF 1

TCA5b

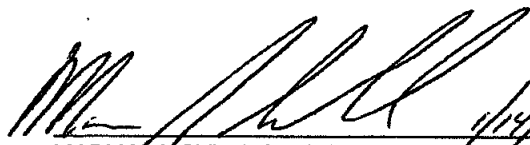
EXHIBIT "A"
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION AREA
APN 373-040-12
(C0603 P03-115-TCE-A)

THAT PORTION OF A FORMER PARCEL OF UNITED STATES GOVERNMENT LAND, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, PREVIOUSLY USED AS A MILITARY RESERVATION KNOWN AS CAMP ELLIOTT, NOW KNOWN AS MISSION TRAILS REGIONAL PARK, LOCATED WITHIN TOWNSHIP 15 SOUTH, RANGE 2 WEST, S.B.B.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 40.00 FOOT WIDE STRIP OF LAND, LYING NORTHEASTERLY AND CONTIGUOUS TO THE NORTHEASTERLY LINE OF THE SAN DIEGO COUNTY WATER AUTHORITY RIGHT OF WAY CONVEYED BY DOCUMENT RECORDED NOVEMBER 17, 1958 IN BOOK 7354, PAGE 155, OFFICIAL RECORDS, AND SHOWN ON RECORD OF SURVEY 17956, RECORDED AUGUST 29, 2003 AS FILE 2003-1060429 IN BOOK OF RECORD OF SURVEY MAPS AT PAGE 17956, LYING BETWEEN ENGINEERS STATION 4197+00 AND ENGINEERS STATION 4199+30, AS SHOWN ON "MISSION TRAILS FLOW REGULATORY STRUCTURE II AND FLOW CONTROL FACILITY" PLANS, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY WATER AUTHORITY AS PROJECT C0603, SPECIFICATION NO. 652.

CONTAINING 9266 S.F. MORE OR LESS




MARVIN J. SYLAKOWSKI, PLS 6998 1/14/19
EXPIRATION 9/30/19 DATE

C0603
MJS 6/19/18
REV 1/14/19

EXHIBIT "B"



DOC. 1993-0811798
REC. 12/2/93
DOC. 1993-0779545
REC. 11/19/1993

RANCHO MISSION
SCC 15191
LOT C

RECORD
OF
SURVEY
17856

APN 373-040-21

STA. 4197+00

APN 373-040-12

40'
SURVEY LINE
P03-115 TCE-A

DOC. 1993-0811798
REC. 12/2/93
DOC. 1993-0779545
REC. 11/19/1993

STA. 4199+30

APN 373-040-20

APN 373-040-21

MISSION TRAILS REGIONAL PARK
(FORMERLY CAMP ELLIOTT)

NORTHEASTERLY LINE OF
SDCWA RIGHT OF WAY

PARCEL 115
PER BOOK 7354 PG 155
REC. 11/17/58

LEGEND:



- DENOTES PROPOSED TEMPORARY
CONSTRUCTION AREA

SAN DIEGO COUNTY WATER AUTHORITY

TEMPORARY CONSTRUCTION AREA

AREA: ±9266 S.F.

SDCWA PARCEL NO.:
P03-115-TCE-A
(PROJECT: C0603)

VESTING:
CITY OF SAN DIEGO
(APN 373-040-12)

DRAWN BY: LEW

CHECK BY: MJS

01/14/2019

SHT 1 OF 1

TCA6

**EXHIBIT A
LEGAL DESCRIPTION
"TEMPORARY UTILITY CONSTRUCTION AREA"
A.P.N. 373-485-33
SDCWA PARCEL 4B2-497B-TCE**

THAT PORTION OF LOT 89, ACCORDING TO MAP 12189 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY SEPTEMBER 14, 1988, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A 10.00 FOOT WIDE STRIP OF LAND, LYING NORTHWESTERLY AND CONTIGUOUS TO THE NORTHWESTERLY LINE OF THE SAN DIEGO COUNTY WATER AUTHORITY RIGHT OF WAY PARCEL 4B2-497B CONVEYED BY DOCUMENT RECORDED MARCH 15, 1996 AS DOCUMENT NO. 1996-0127527, OF OFFICIAL RECORDS.

TOGETHER WITH A 10.00 FOOT WIDE STRIP OF LAND, LYING SOUTHEASTERLY AND CONTIGUOUS TO THE SOUTHEASTERLY LINE OF SAID SAN DIEGO COUNTY WATER AUTHORITY RIGHT OF WAY PARCEL 4B2-497B.

THE SIDELINES SHALL TERMINATE SOUTHWESTERLY AT THE NORTHEASTERLY LINE OF CORTE PLAYA CATALINA, BEING ALSO THE WESTERLY LINE OF SAID LOT 89, AND NORTHEASTERLY AT THE SOUTHWESTERLY LINE OF SAN DIEGO COUNTY WATER AUTHORITY PARCEL P04-495, RECORDED AUGUST 26, 1976 AS DOCUMENT 76-277511 OF OFFICIAL RECORDS.

CONTAINING 430 S.F. MORE OR LESS


MARVIN J. SYLAKOWSKI, PLS 6998 8/29/18
EXPIRATION 9/30/19 DATE



C0603
LEW 8/22/18

MOST NORTHERLY CORNER OF
LOT 89 OF MAP 12189;
INTERSECTION OF THE SW'LY
R/W OF SDCWA PER DOC REC.
11-17-58 BK7354 PG. 155,
WITH THE SE'LY BNDRY LINE
OF LOT 70 OF MAP 12188

EXHIBIT "B"

N



N.T.S

MAP 12189

APN
373-484-11
LOT 40

APN
373-485-12
LOT 41

APN
373-485-10
LOT 39

SEE DETAIL

CORTE PLAYA
CATALINA

APN
373-485-33
LOT 89

TABLE			
	BEARING/DELTA	LENGTH	RADIUS
(A)	(S40°14'46"E)	(558.44')	
(B)	(S26°46'50"W)	(32.59')	
(C)	(N40°14'46"W)	(72.64')	
(D)	(S49°45'14"W)	(15.00')	
(E)	(23°54'51")	(18.78')	(45')
(1)	(N49°30'02"E)	(18.86')	
(2)	(S40°14'46"E)	(5.62')	
(3)	(S49°00'59"W)	(21.97')	
(4)	(8°24'23")	(6.60')	(45')

DATA (RECORD PER DOC 96-0127527 REC. 3-15-96)

DETAIL
NOT TO SCALE

LEGEND:



- DENOTES PROPOSED TEMPORARY
CONSTRUCTION AREA

SAN DIEGO COUNTY WATER AUTHORITY

TEMPORARY CONSTRUCTION EASEMENT

AREA: ±430 S.F.

SDCWA PARCEL NO.:
4B2-497B-TCE
(PROJECT: C0603)

VESTING:
CITY OF SAN DIEGO
(APN 373-485-33)

DRAWN BY: LEW CHECK BY: MJS 08/23/2018 SHT 1 OF 1

APPENDIX C

Restoration of Permit Areas

Top soil will be salvaged and stored on site at the beginning of construction. During backfill the salvaged top soil will be amended and placed at a depth of 6 inches. The final grading will provide shallow swales and mounds and blend the graded areas into the surrounding areas. Following construction, all areas will be seeded with native species and planted with container shrubs, predominantly with coastal sage scrub and chaparral scrub plant communities that will visually blend in with the surrounding native-habitat types and will be compatible with the hydrologic and biologic features of the surrounding areas. Following implementation, all restoration sites will be monitored and maintained for up to five years or until all the success criteria have been reached, whichever is shorter. If success criteria are not met at the end of the maintenance and monitoring period, remedial actions will be taken such as replanting, reseeding, adjusting weeding frequency, or minor modifications to the sampling protocol. If unforeseen circumstances require more extensive or costly measures to achieve project success, the Permittee will consult with the restoration specialist and regulatory agencies to develop contingency measures. Contingency measures will be funded by the Permittee. After contingency measures have been implemented, maintenance and monitoring will continue according to this plan until the restoration site meets the performance standards.

EXHIBIT A

Recording Requested by:
City Real Estate Assets Dept.
After recording mail to:

THE CITY OF SAN DIEGO
Attn: Real Estate Assets Dept.
1200 Third Avenue, Suite 1700,
San Diego, CA 92101-4199

371	010	25	PTN
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SPACE ABOVE THIS LINE FOR RECORDER'S USE

No Documentary Tax Due - R&T 11922 (amended)

SLOPE EASEMENT DEED AGREEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the **CITY OF SAN DIEGO**, a California municipal corporation (**Grantor**), hereby grants to the **SAN DIEGO COUNTY WATER AUTHORITY**, a California public agency (**Grantee**), a non-exclusive permanent easement and for earth embankment slopes, for earth excavation to facilitate construction, maintenance, repair and protection of slope or slopes over, under, upon, along and across all that real property situated in the City of San Diego, County of San Diego, State of California (Easement Area), described as follows:

See Exhibits "A" and "B" attached hereto and incorporated herein.

Grantor, its heirs and assigns, reserves the right to the continued use the Easement Area subject to the Following conditions: the erecting of buildings, masonry walls, and the alteration of surface grade shall be prohibited without the consent of Grantee.

Grantor shall be responsible for the maintenance and restoration of any and all trees, plants, vegetation, shrubs, and property damaged or disturbed as a result of the construction, maintenance, repair and protection of the slope or slopes. All impacts to real and personal property shall be restored to a condition as near as possible to the condition existing at the time of commencement of any construction, maintenance, repair and protection of the slope or slopes, and shall be restored in compliance with and according to all applicable laws, policies, regulations, resolutions, previously approved environmental documents related to the Easement Area, and in accordance with the following requirements: Top Soil will be salvaged and stored on site at the beginning of construction; During backfill the salvaged top soil will be amended and placed at a depth of 6 inches; The final grading will provide shallow swales and mounds and blend the graded areas into the surrounding areas. Following construction, all areas shall be seeded with native species and planted with container shrubs, predominantly with coastal sage scrub and chaparral scrub plant communities that shall visually blend in with the surrounding native habitat types and shall be compatible with the hydrologic and biologic features of the surrounding areas. Following restoration, Grantee shall monitor and maintain slopes to the Grantor's satisfaction.

All ingress and egress in, to, through, over, under, and across the adjacent Grantor-owned property shall commence from any road, highway, street, alley, or other reasonable access point. To the maximum practicable extent, to service Grantee's Facility and access the Easement Area, Grantee shall use existing gates, roads, trails or facilities to avoid disturbance of the adjacent Grantor-owned property.

Grantee shall not use or authorize any uses of any kind on adjacent Grantor-owned property. Grantee shall not use or authorize such other uses of the Easement Area, nor shall there be any further use of the Easement Area by Grantee or its agents, that are not consistent with the uses described herein.

Grantee shall be solely responsible for the release, or substantial threat of a release, into the environment of any hazardous substance, pollutant or contaminant, caused by Grantee, or its officers, agents, employees, or contractors, in or adjacent to the Easement Area, or both, as the result of exercising the rights granted herein. Any reporting, containment, removal, or other remedial action relating to such Grantee release or threat of release required by law or regulation shall also be the responsibility of Grantee or its officers, agents, employees, and contractors, as appropriate in accordance with law.

In the event Grantee determines that this Easement Area is no longer required for the conduct of its business, Grantee shall: (i) furnish Grantor a good and sufficient Quitclaim Deed, of all Grantee's right, title and interest in and to this Easement Area and the Property, and (ii) remove, without cost to Grantor, any facilities and equipment which Grantee installed within the Easement Area and the adjacent Grantor-owned property, if applicable, at its expense and otherwise restore the Easement Area and any other Grantor-owned property impacted by Grantee's Facility. At Grantor's sole discretion, Grantee shall remove any substructures Grantee installed within the Easement Area, at Grantee's sole cost.

All use of the Easement Area shall be limited to a slope or slopes, and Grantee shall not sublicense or otherwise grant any right to any third party to use the Easement Area or any of the privileges conveyed herein.

Grantee shall protect, defend, indemnify and hold Grantor and its officers, employees, representatives and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Grantee's officials, officers, employees, invitees, guests, agents or contractors, which arise out of or are in any manner directly or indirectly connected with Grantee's exercising of the rights granted to Grantee herein, and all reasonable expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that Grantee's duty to indemnify and hold harmless shall not include any claims asserted or established liability arising from the sole negligence or intentional misconduct of Grantor or its officers, employees, representatives or agents. Grantor may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Grantee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs.

The Easement is conveyed by Grantor to Grantee, as is, where is and with all faults. Grantee knowingly waives all such faults and existing conditions. Grantor makes no representations or warranties, express or implied, or arising by operation of law with respect to the title, maintenance, repair, condition, design or marketability of the Easement Area, including any warranty of suitability for a particular purpose, it being the express intention of the Grantor and Grantee that the Easement be conveyed to, and accepted by Grantee in its present condition and state of repair.

Nothing in this Slope Easement Deed Agreement shall be construed as transferring any fee interest in the Easement Area to Grantee. Unless otherwise provided for under separate agreement, Grantee will maintain the Easement Area as required by and consistent with applicable state and municipal statutes, charters, regulations, resolutions, and policies regarding dedicated park and recreation property.

This Slope Easement Deed shall be governed by and construed in accordance with California law. The Easement and any covenants, conditions, and restrictions, contained herein shall run with the land and be binding upon and inure to the benefit of the successors, heirs, executors, administrators, permittees, licensees, agents and assigns of Grantor and Grantee.

Grantor and Grantee warrant that the undersigned officer, is duly authorized by their respective governing Council and/or Board, and hereby grants/accepts the interest in real property conveyed by this slope Easement Deed and consents to the recordation thereof.

IN WITNESS WHEREOF, the parties have executed this Slope Easement Deed on the date set forth below.

THE CITY OF SAN DIEGO,
a California municipal corporation

SAN DIEGO COUNTY WATER AUTHORITY,
a public agency

By: _____

By: _____

Printed Name: Cybele L. Thompson

Printed Name: Gerard E. Reed, III

Title: Director, Real Estate Assets Dept.

Title: Director of Engineering

Date: _____

Date: _____

Approved as to form this _____ day of _____, 2019.

MARA W. ELLIOTT, City Attorney

By: _____

Printed Name: Marco A. Verdugo

Title: Deputy City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF _____) §

On _____ before me, _____
Date Name and Title of Notary Officer here

personally appeared _____
Name and Title of Signatory here

who proved to me on the basis of satisfactory evidence to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

CIVIL CODE §1189

STATE OF CALIFORNIA)
) §
COUNTY OF)

personally appeared _____
Name and Title of Signatory here

who proved to me on the basis of satisfactory evidence to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____