

**Recording Requested by and
When Recorded, Return to**
Monterey Regional Water Pollution Control
Agency
Attn: General Manager
5 Harris Court, Building D
Monterey, CA 93940

Exempt from Recording Fees: Gov. Code 27383
Documentary Transfer Tax: \$0.00;
No documentary transfer tax due:
(R&T Code §11922) Conveyance to government entity

APN: 261-011-021

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

TEMPORARY CONSTRUCTION EASEMENT DEED (NON-EXCLUSIVE)

A. Grantor is the owner of the real property situate in the County of Monterey, California, commonly known as APN 261-011-021, and more particularly described in the grant deed from City of Salinas to Monterey County Flood Control and Water Conservation District, recorded on February 4, 1982 on Reel 1531 of Monterey County Official Records, at Page 356 (hereinafter the "Property"); and

B. By separate instrument Grantor has granted to Grantee a permanent easement to construct, operate and maintain the Reclamation Ditch Diversion Pump Station (hereafter referred to as the "Pump Station") on the Property; and

C. In order to construct the Pump Station, Grantee and its authorized agents, employees and Contractors require a Temporary Construction Easement (hereafter "TCE") and Right-of-Way upon that portion of the Property described below for the purpose of constructing a pump station, intake structure, fish screen, flow monitoring structure, installing temporary fencing, storing materials and equipment during construction, excavating and restoring existing improvements immediately adjacent to the Pump Station.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor, the Monterey County Water Resources Agency (Agency), a public entity, hereby grants to the Monterey Regional Water Pollution Control Agency (PCA), a temporary, non-exclusive easement and right for the express purpose of constructing a pump station, intake structure, flow monitoring structure, installing temporary fencing, storing materials and equipment during construction, excavating and restoring existing improvements immediately adjacent to the Pump Station.

The legal description of the TCE is attached as Exhibit A.

The TCE area is depicted on the diagram attached as Exhibit B.

This Temporary Construction Easement is granted upon the "Monterey County Water Resources Agency Temporary Construction Easement, General Provisions", attached as Exhibit C.

Executed, at Salinas, California.

GRANTOR
Monterey County Water Resources Agency

Dated: _____

By: _____
David E. Chardavoyne, General Manager

Dated: _____

By: _____
Clerk, Board of Supervisors

APPROVED AS TO FORM:

Dated: _____

By: _____
Jesse J. Avila, Deputy County Counsel

GRANTEE
Monterey Regional Water Pollution Control Agency

Dated: _____

By: _____
Paul A. Sciuto, General Manager

APPROVED AS TO FORM:

Dated: _____

By: _____
Robert Wellington, MRWPCA Legal Counsel

A notary 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 Monterey

On _____, 2017 before me, _____, personally appeared David E. Chardavoyne, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity on behalf of which the person acted, executed the instrument.

I certify under 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 _____ [Seal]

A notary 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 Monterey

On _____, 2017 before me, _____, personally appeared Paul A. Sciuto, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity on behalf of which the person acted, executed the instrument.

I certify under 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 _____ [Seal]

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY THAT the interest in real property conveyed by this instrument from Grantor to Monterey Regional Water Pollution Control Agency, a California joint powers agency, is hereby accepted by the undersigned pursuant to the authority conferred by Resolution No. 87-13 of the Board of Directors of the Monterey Regional Water Pollution Control Agency adopted on July 27, 1987, and consent is hereby given for the recordation of said instrument.

Dated: _____

By: _____

Paul A. Sciuto, General Manager
Monterey Regional Water Pollution Control Agency

EXHIBIT A
TEMPORARY CONSTRUCTION EASEMENT
(OVER RECLAMATION DITCH PROPERTY)

Certain real property situate in the County of Monterey, State of California, being a portion of the property transferred from the City of Salinas to the Monterey County Flood Control and Water Conservation District by grant deed recorded February 4th, 1982 in Reel 1531, Page 356, Official Records of said county, described as follows:

Beginning at the southeast corner of said property described in said deed, being also the southeast corner of that certain Parcel "1" of the land conveyed in the Final Judgement of Condemnation recorded November 18, 1981 in Reel 1517 at Page 991, Official Records of said county, thence along the boundary common to the northerly boundary of the Southern Pacific Railroad Company and the southerly boundary of said Parcel "1"

- 1) North 64°46'00" West, 314.00 feet; thence leaving said boundary
- 2) North 25°14'00" East, 108.76 feet to a point on northwesterly prolongation of course #8 of said property described in said Reel 1531, Page 356, Official Records; thence along said prolonged line
- 3) South 64°46'00 East, 17.77 feet to the northwesterly terminus of said course #8; thence along said course #8
- 4) Continuing South 64°46'00 East, 186.62 feet; thence along course #9 of said property
- 5) South 24°46'00" East, 138.09 feet; thence along course #10 of said property
- 6) South 14°23'16" West, 20.36 feet to the POINT OF BEGINNING.

Containing 29,077 square feet or 0.668 acres, more or less.

As shown on the plat attached hereto and made a part hereof.

END OF DESCRIPTION

PREPARED BY:
WHITSON ENGINEERS

RICHARD P. WEBER P.L.S.
L.S. NO. 8002
Job No.: 1906.31



Exhibit C
Monterey County Water Resources Agency
Temporary Construction Easement, General Provisions

The Monterey County Water Resources Agency (Agency) by this temporary construction easement (TCE) hereby grants to the Monterey Regional Water Pollution Control Agency (PCA) permission to enter upon Agency's property, conditioned upon the agreement of the Parties that this TCE does not create or vest in PCA any interest in the real property herein described or depicted, and that the TCE is further subject to the following terms and conditions:

1. TCE Subject to Laws and Regulatory Agency Permits: This TCE is expressly conditioned upon PCA's obtaining any and all regulatory permits or approvals required by the relevant regulatory agencies for the Project and PCA's use of the Property, and upon PCA's compliance with all applicable municipal, state and federal laws, rules and regulations.

Prior to commencement of any work, PCA shall obtain all such legally required permits or approvals and, upon request, submit to the Agency full and complete copies of all permits and approvals, including documentation related to or referenced in such permits and approvals, along with the corresponding agency contact and telephone numbers, and related California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA) documentation as applicable.

2. Term of TCE: This TCE shall only be for the period beginning on July 1, 2017, and ending on June 30, 2019, or as may be reasonably extended by written mutual agreement of the Parties.

3. Consideration: PCA agrees to pay Agency the sum of One-thousand, Nine-hundred Thirty-one and 00/100 Dollars (\$1,931.00) as consideration for the rights granted by this TCE. Payment is due upon execution of this TCE.

4. TCE Subject to Existing Claims: This TCE is subject to existing contracts, permits, licenses, encumbrances and claims which may affect the Property.

5. Waiver of Claims and Indemnity: PCA waives all claims against Agency, its officers, agents and/or employees, for loss, injury, death or damage caused by, arising out of, or in any way connected with the condition or use of the Property, the issuance, exercise, use or implementation of this TCE, and/or the rights herein granted. PCA further agrees to protect, save, hold harmless, indemnify and defend Agency, its officers, agents and/or employees from any and all loss, damage, claims, demands, costs and liability which may be suffered or incurred by Agency, its officers, agents and/or employees from any cause whatsoever, arising out of, or in any way connected with this TCE, exercise by PCA of the rights herein granted, PCA's use of the Property and/or the Project for which this TCE is granted, except those arising out of the sole active negligence or willful misconduct of Agency. PCA will further cause such indemnification and waiver of claims in favor of Agency to be inserted in each contract that PCA executes for the provision of services in connection with the Project for which this TCE is granted.

6. Contractors: PCA shall incorporate the terms, conditions and requirements contained herein when contracting out all or any portion of the work permitted hereunder. PCA shall be responsible for ensuring contractor and subcontractor compliance with the terms and conditions contained herein.

7. Insurance Requirements: PCA shall obtain and continuously maintain either commercial insurance or permissible self-insurance approved by the Agency's ex officio Risk Management Division, naming the Agency and County of Monterey as additional insured. As used in this Section 7, "CONTRACTOR" shall either mean PCA or its contractors, according to the context. As a condition of this TCE and in connection with PCA's indemnification and waiver of claims contained herein, PCA shall maintain, and cause its contractors to maintain, a policy or policies of insurance as follows:

7.1 Evidence of Coverage:

Prior to use and/or occupation of the TCE, the CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the CONTRACTOR upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to the Agency's Contact, unless otherwise directed. The CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all coverage required and such coverage has been approved by the Agency. This approval of coverage shall neither relieve nor decrease the liability of the CONTRACTOR.

7.2 Qualifying Insurers:

All coverages, except surety, and except coverage through permissible self-insurance, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

7.3 Insurance Coverage Requirements:

Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent CONTRACTORS, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

☐ Exemption/Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

☐ Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

☐ Exemption/Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

☐ Exemption/Modification (Justification attached; subject to approval).

7.4 Other Insurance Requirements.

All insurance required by this Agreement shall be either (1) a company acceptable to the Agency and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California, or (2) permissible self-insurer. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the Agency shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subCONTRACTOR, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subCONTRACTOR showing each subCONTRACTOR has identical insurance coverage to the above requirements.

*Commercial general liability and automobile liability policies shall provide an endorsement naming the Monterey County Water Resources Agency and the County of Monterey, their officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is **ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000)**. The required endorsement form for Automobile Additional Insured endorsement is **ISO Form CA 20 48 02 99**.*

Prior to use and/or occupation of the TCE CONTRACTOR shall file certificates of insurance with the Agency's contract administrator, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Agency, annual certificates to Agency's Contract Administrator. If the certificate is not received by the expiration date, Agency shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles Agency, at its sole discretion, to terminate this Agreement immediately.

8. Reservation of Rights: Agency reserves the right to use the Property in any manner, provided such use does not unreasonably interfere with PCA's rights herein.

9. Conditions of Access: PCA has the right of ingress to and egress from said easement over and across adjacent Agency lands by such route or routes as shall occasion the least practicable damage and inconvenience to Agency. Access to the Property shall be limited to the access designated by Agency.

10. Notice of Work: Any required notices to Agency shall be sent to the Agency contact named below. At least twenty-four (24) hours prior to commencing use/occupation of the Property for any of the purposes hereinabove set forth, PCA shall provide the Agency contact[s] named below with written notice of PCA's intent to enter the

Property. PCA shall also notify the Agency contact[s] listed below in writing at least twenty-four (24) hours prior to cessation or completion of work. Should Agency personnel need to contact PCA, Agency shall notify PCA's contact person listed below:

PCA:

Contact: Paul A. Sciuto
General Manager
Address: 5 Harris Court, Building D
Monterey, CA 93940
Telephone: 831- 372-3367
Fax: 831- 372-6178

AGENCY'S CONTACT:

Contact: Brent Buche
Assistant General Manager
Address: 893 Blanco Circle
Salinas, CA 93901
Telephone: (831) 755-4860
Fax: (831) 424-7935

11. Limits of Work: In no event shall this PCA authorize work in excess or contrary to the terms and conditions of any regulatory agency permit or approval.

12. Compliance with Monitoring and Mitigation Measures: Resource monitoring and mitigation measures identified by any State or Federal environmental laws and regulations shall be timely completed.

PCA's activities conducted under this TCE shall comply with all State and Federal environmental laws, including, but not limited to, NEPA, the Endangered Species Act, and CEQA.

13. Assignment: This TCE shall not be assigned, mortgaged, hypothecated, or transferred by PCA, whether voluntarily or involuntarily or by operation of law, nor shall PCA let, sublet or grant any license or permit with respect to the use and occupancy of the Property or any portion thereof, without the prior written consent of Agency.

[End of Temporary Construction Easement, General Conditions]