

## Attachment C



Lease Number \_\_\_\_\_  
 Facility Number B01  
 Location Name: Gilbert Retarding Basin  
 Premises Address 430 N. Gilbert St. Anaheim, CA 92801

### LEASE

THIS IS A LEASE (hereinafter referred to as "**Lease**") made \_\_\_\_\_, 2026, ("**Effective Date**") by and between Orange County Flood Control District, a body corporate and politic (hereinafter referred to as "**District**" or "**Lessor**") and City of Anaheim a municipal corporation and charter city (hereinafter referred to as "**City**"). District and City may individually be referred to herein as a "**Party**" or collectively as the "**Parties**."

### RECITALS

- A. Pursuant to that certain agreement between the Parties dated January 20, 1959 as amended ("**Agreement**"), the City operates Dad Miller Golf Course, a public golf course, on a portion of District's Gilbert Retarding Basin Facility No. B01B01-M801.02 ("**Basin**"), along with an open segment of Carbon Creek Channel ("**Channel**") that is unlined and composed on native or engineered soil ("**Earthen Channel**") within the District's flood control easement on land the City owns, located between Magnolia Avenue and Gilbert Street in Anaheim ("**Project Site**").
- B. Dad Miller Golf Course consists of a total of 103.54 acres, which is made up of the following ownership: (i) City of Anaheim - 50.38 acres; (ii) County Flood Control District- 44.18 acres; (iii) Carbon Creek Channel 7.02 acres; and (iv) City of Anaheim Electric Substation- 1.96 acres
- C. The District entered into the Agreement that authorized City use of the Project Site for recreational purposes without payment of rent to the District in consideration of the City agreeing to maintain the Project Site and any facilities the City constructs thereon in accordance with the terms of the Agreement.
- D. The Agreement was to expire in 2002 and the Parties acknowledge the City's continued possession of the Project Site has been as a tenancy from month to month governed by the conditions and covenants of the Agreement, as agreed upon by the Parties in that certain Second Modification to Agreement and accompanying letter dated October 29, 2002 and a 2002 Memorandum of Understanding ("**2002 MOU**") also dated October 29, 2002 and a 2005 Memorandum of Understanding ("**2005 MOU**"), dated February 10, 2005.
- E. The Parties entered into the 2002 MOU to (i) extend the Agreement to allow for the annexation of certain territory by the City of Anaheim; and either (ii) if the annexation was completed, the District would enter into a new low cost long term lease (New Lease) with the City; or (iii) if the annexation was not completed, then the District and City agreed to negotiate a fair rental value for the New Lease.
- F. The Parties entered into the 2005 MOU refining the terms of the annexation contemplated in the 2002 MOU, among other issues, along with extending the deadline for the annexation and the term of the Agreement to October 31, 2006.
- G. The Agreement was modified via a letter dated February 24, 2005 terminating the use of Parcel A of the leased premises and the Parties now wish to enter into a New Lease for Parcel B of the previous leased premises only.

## 1. DEFINITIONS (1.0 SR)

The following words in this Lease shall have the significance attached to them in this Clause (DEFINITIONS), unless otherwise apparent from context:

**“Board of Supervisors”** means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.

**“CEO/Office of Risk Management”** means the Risk Manager, County Executive Office, Risk Management, County of Orange, or designee, or upon written notice to City, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

**“Chief Real Estate Officer”** means the Chief Real Estate Officer, County Executive Office, County of Orange, or upon written notice to City, such other entity as shall be designated by the County Executive Officer.

**“Chief Engineer”** means the Chief Engineer, OC Public Works and/or District, County of Orange, or designee, upon written notice to City, such other person or entity as shall be designated by Director.

**“County Counsel”** means the County Counsel, County of Orange, or designee, or upon written notice to City, such other person or entity acting in a similar capacity as shall be designated by the Board of Supervisors.

**“County Executive Officer”** means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to City, such other person or entity as shall be designated by the Board of Supervisors.

**“Director of OC Public Works”** or **“Director”** means the Director, of Orange County Public Works or designee.

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

## 2. PREMISES (1.1 SR)

District leases to City approximately 44.18 acres of District-owned property, zoned Open Space, lying within the larger area commonly known as Dad Miller Golf Course located at 430 N. Gilbert Street, Anaheim, CA 92801 (**“Premises”**) as described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and by this reference made a part hereof. The Premises are accepted “as is” and “where is” by City subject to any and all existing uses, easements and encumbrances. The City further acknowledges that the Premises and the Basin is part of a regional flood control facility and is susceptible to periodic flooding and erosion which may directly affect the City’s use of the Premises hereunder.

## 3. USE (1.2 SR)

City's use of the Premises shall be limited to continuation of the existing golf course facility and operations, including operation of an eighteen hole public golf course with corresponding parking uses, and landscape improvements (e.g. grading, landscape architecture, cart path construction and maintenance and repairs, irrigation system engineering) in addition to any repair and maintenance related thereto. Permitted activities

shall include public golfing, golf lessons, tournaments, events, and similar functions including the use of golf equipment and carts.

City agrees not to use the Premises for any other purpose, nor to engage in or authorize any other activity within or from the Premises, without prior District approval. Additionally City shall not use the Premises or any portion thereof for any illegal or unlawful purpose and will not cause or permit a nuisance or waste to be created or maintained thereon.

City agrees that no improvements shall be erected, placed upon, operated, or maintained within the Premises, nor any business conducted or carried on therein or therefrom, in violation of the terms of this Lease, or of any regulation, order of law, statute, bylaw, or ordinance of a governmental agency having jurisdiction. Notwithstanding the above, City shall maintain its ability to pump water out of the Gilbert Retarding Basin Facility into the Carbon Creek Channel pursuant to section 16K, below.

#### **4. DISTRICT'S USE RESERVATIONS AND RIGHT OF ENTRY (1.3 SR)**

The Premises lies within an area required for the maintenance and operation of the Channel (OCFCD Facility No. B01) and the Basin (OCFCD Facility No. B01B01). These facilities are an integral part of a flood control and water conservation system that District operates to fulfill its primary function of protecting life and property in Orange County. Use of the Premises by City shall be at all times subordinate to use by the District for activities related to flood control or water conservation. District reserves the right for itself, and the U.S. Army Corps of Engineers ("USACE") from time to time, without unreasonable interference, to access, enter and use the Premises. City shall cooperate with District and or any of the person or entity acting for, on behalf of or cooperating with the District, during scheduled operations or unanticipated events, including in the event of emergency related to public, health and safety, that require access to the Premises. District shall make best efforts to plan and notify City in advance of its intent to access the Premises.

All rights reserved to the District in this Lease shall be exercised by District at its sole and absolute discretion. District shall incur no liability to City or others whose interest in the Premises stems from that of City for any action undertaken while accessing the Premises including construction, reconstruction, maintenance, operation, improvement, enlargement or modification of said flood control or water conservation facilities by District or any of the person or entity acting for, on behalf of or cooperating with the District.

#### **5. PARKING (1.4 SR)**

Throughout the Term of the Lease and including any Extension Term pursuant to Clause 8 (OPTION TO EXTEND TERM), City shall have the exclusive right, without additional charge, to use all the parking spaces located on the Premises. City shall ensure compliance with the Americans with Disabilities Act, Section 7102 of the California Uniform Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as established by the local jurisdiction in which the Premises is located where the provisions of such local codes and/or ordinances exceed or supersede the State requirements, during the entire term and any extension of this Lease.

#### **6. TERMINATION OF PRIOR AGREEMENTS (1.5 SR)**

It is mutually agreed that this Lease shall terminate and supersede the prior agreements between the Parties hereto covering all or any portion of the Premises, including but not limited to all terms and conditions and/or property identified within the following: Agreement between the Orange County Flood Control District and the City of Anaheim for the lease of Carbon Creek Channel retarding basin, dated January 20, 1959; and, the Modification of the Agreement, dated September 20, 1977; and, the Second Modification of Agreement, dated

October 29, 2002. Notwithstanding the foregoing, this provision shall not release City from any obligations under the prior agreements required to be performed through the Commencement Date of this Lease or from any obligations of indemnification based upon events occurring prior to the commencement of this Lease.

#### 7. TERM (1.6 SR)

The term of this Lease shall be Twenty Five (25) years (**Term**), commencing \_\_\_\_\_ at 12:01AM (**Commencement Date**). Parties agree that the Commencement Date of this Lease will be confirmed in writing by either Party upon demand by the other. Either Party may terminate this Lease at any time, by giving the other Party three hundred and sixty five (365) days advance written notice of such termination.

#### 8. OPTION TO EXTEND TERM (1.7 SR)

Provided City is not in and has not been in Default under this Lease or any approved Extension Term, as defined in Clause 31 (DEFAULTS AND REMEDIES), the Lease shall automatically extend for up to five (5) additional, five (5) year terms ("**Extension Terms**") upon written notice from the City to the District at least six (6) months prior to the expiration of the current Term or Extension Term.

#### 9. RENT (1.8 SR)

A. Rent. City agrees to pay District rent for the Premises in the amount of Two Hundred Fifteen Thousand Dollars (\$215,000) per year, during the Term of this Lease. Rent may be paid either (i) annually in a single lump sum payment, or (ii) in twelve (12) equal monthly installments, at City's election. The first rent payment shall be due on the Commencement Date of this Lease and shall be prorated as applicable to reflect, (a) the remaining days in that month if rent is paid monthly, or (b) the remaining days in the year if rent is paid annually. All rent payments shall be paid in full on or before the first day of the applicable month or year.

B. Reduced Rent. In the event that the City is successful in annexing the County of Orange islands located within the City's sphere of influence and referred to as AN6, AN7, AN8 ("**County Islands**"), at any time during the Term, the District will reduce the rent due from City to \$1.00 per year ("**Reduced Rent**"), for the remainder of the Term of this Lease, not including Extension Terms. Such Reduced Rent shall be documented in a letter agreement signed by both the City and District representatives having legal authority and the signed letter agreements shall be attached hereto.

In addition, notwithstanding any other provision in this Lease to the contrary, including without limitation the Force Majeure provision, if City is unable to use the Premises for the Uses (as defined in Section 3) due to a closure or restriction of business operations mandated by a federal, state, or local governmental authority (a "**Government-Mandated Closure**") in response to an epidemic, pandemic, public health emergency, or similar public health crisis, the obligation to pay Rent shall be abated (suspended) in proportion to the reduction in City's ability to use the Premises for its intended purpose. If the Premises are required to be completely closed, one hundred percent (100%) of the Rent shall be abated during the period of such Government-Mandated Closure. The rent abatement shall commence from the effective date of the Government-Mandated Closure and shall continue until such time as the governmental authority lifts the restrictions allowing City to resume full operations.

C. Rent Adjustment. Rent throughout the Term shall be subject to annual increases beginning July 1, 2031 then annually thereafter the Rent may be adjusted upward by an amount equal to the percentage increase in the Consumer Price Index for all urban consumers, Los Angeles-Anaheim-Riverside statistical area, all items (1982-84 = 100) published by the United States Department of Labor, Bureau of Labor Statistics ("**CPI**") for

the preceding 12-month period. Said CPI adjustment will be capped at a maximum increase of two and one half (2.5) percent each adjustment as applicable.

The Parties agree that Reduced Rent and Rent shall be absolutely net to District and that, except as otherwise provided herein, City will pay all costs, charges, insurance premiums, taxes, utilities, expenses and assessments of every kind and nature incurred for, against or in connection with the Premises which arise or become due during the Term or Extension Term as a result of City's use and occupancy of the Premises. Under no circumstances is District obligated or required to make any payment of any kind whatsoever or be under any other obligation or liability under this Lease except as expressly provided herein in Clause 15 (OBLIGATIONS OF THE DISTRICT).

#### **10. RENT PAYMENT PROCEDURE (2.0 SR)**

Rent payments shall be identified with the Facility No. and/or Lease number as shown in the header or footer of this document, and delivered to or filed with:

Orange County Treasurer-Tax Collector  
Revenue Recovery/Accounts Receivable Unit  
P.O. Box 4005 Santa Ana, California 92702-4005

All sums due under this Lease shall be paid in lawful money of the United States of America, without offset or deduction or prior notice or demand. Rent payments must be made by check payable to the "Orange County Flood Control District." Each Rent payment shall be identified within the payment instrument as "Dad Miller Lease Payment" and shall include the month and year to which such payment applies. District may change the designated place of payment and filing at any time upon ten (10) calendar days' written notice to City. City assumes all risk of late payments if checks are unidentified, or of loss, if payments are made by mail.

No payment by City 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 the amount due or pursue any other remedy in this Lease. Nor shall District's acceptance of a lesser amount due or delay in pursuing full payment act as a legal bar against District's recovery of any amount due under this Lease.

#### **11. CHARGE FOR LATE PAYMENT (2.1 SR)**

City hereby acknowledges that the late payment of Rent or any other sums due hereunder will cause District to incur costs not contemplated by this Lease, 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 of Rent as specified in Clause 9 (RENT) or if any other sum due District under this Lease is not received by District within fifteen (15) days after the due date, a late charge of Two Hundred Dollars (\$200) shall be added to the payment, and the total sum shall become immediately due and payable to District. An additional charge of Two Hundred Dollars (\$200) shall accrue monthly for each additional month that said payment remains unpaid.

City and District hereby agree that such late charges represent a fair and reasonable estimate of the costs that District will incur by reason of City's late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by District shall in no event constitute a waiver of City's Default (as defined in Clause

31 (DEFAULTS AND REMEDIES) with respect to such overdue payment or prevent District from exercising any of the other rights and remedies granted hereunder.

**12. LEASE ADMINISTRATIVE COSTS (SRLic-2.2 SR)**

Intentionally Deleted

**13. SECURITY DEPOSIT (2.3 SR)**

Intentionally Deleted

**14. RECORDS AND ACCOUNTS (2.4 SR)**

Intentionally Deleted

**15. OBLIGATIONS OF THE DISTRICT**

District shall maintain Carbon Creek Channel within the lease area and within the adjacent City owned area (the "Channel") consistent with comparable flood control channels pursuant to District's legal obligations..

District may provide routine inspections of the Premises and Channel and shall provide the City a copy of the most current inspection report, upon request.

District reserves the right unto itself and to USACE to perform any flood control work, including but not limited to the repair, removal, construction or reconstruction of said Channel or Basin or to do any other work necessary at any time for purposes of flood control and water conservation, which are a higher public use than that contemplated by the City of recreational purposes.

District shall review and respond to all City requests for modifications or construction through the District's encroachment permit process as set forth in Section 16, below.

**16. MAINTENANCE OBLIGATIONS OF CITY – CONDITIONS AND CARE OF PREMISES (2.5 SR)**

A. City shall, to the reasonable satisfaction of District, keep and maintain, or cause to be kept and maintained, the Premises and all City Improvements (as that term is defined in Section 19, below) of any kind in place and used, occupied, or otherwise operated or maintained by the City on the Premises prior to the Commencement Date, or which may be erected, installed, or made thereon by City or its Licensee or Licensees, during the Term or Extension Term of this Lease, in good condition and in substantial repair, provided that in the event (i) of substantial damage to any such City Improvements it shall be at City's option whether to repair or replace such improvements (provided that if the improvements are not to be repaired or replaced, then they shall be placed into a safe condition or removed), as provided in Clause 20 (OPERATIONAL REQUIREMENTS OF CITY) below or (ii) City or its Licensee(s) ceases to use any improvements, it shall be at City's option to not repair or replace any such improvement so long as the improvement is maintained in a safe condition or removed. Subject to the foregoing, it shall be City's responsibility to take all steps necessary or appropriate to maintain such a standard of condition and repair.

B. City shall at its sole cost and expense, keep the Premises clean and in good repair at all times during the entire term of this Lease including clean-up of any golf course trash or debris that migrates into the section of the Earthen Channel which runs through the City owned portion of Dad Miller Golf Course. Except as

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otherwise expressly set forth in this Lease, City shall be responsible for all costs relating to the operation and maintenance of the Premises.

C. City shall be solely responsible for all costs and expenses for any maintenance and repairs necessitated by the actions of City, or Licensee(s), resulting in an extraordinary load imposed on underground utilities outside the Premises or contamination of Flood Control facilities or property.

D. If City fails to maintain or make repairs or replacements as required herein, District shall notify City in writing of said failure. Should City fail to correct the situation within five (5) days after receipt of written notice specifying the condition to be corrected (provided that such 5-day period may be extended accordingly if a longer time is reasonably necessary to correct the condition and City promptly commences such cure and diligently prosecutes it to completion), District may make the necessary correction or cause it to be made and the cost thereof, including but not limited to the cost of labor, materials, equipment, and an administrative fee equal to fifteen percent (15%) of the sum of such items, shall be paid by City within ten (10) days of receipt of a statement, including reasonable supporting documentation, of said cost from District. District may, at its sole option, choose other remedies available herein, or by law.

E. If City receives an inspection notice or a deficiency notice following an inspection by any public or regulatory agency having jurisdiction, City agrees to make any and all corrections in the manner required immediately upon receipt of such notice. City's failure to comply with the provisions of this Clause 16 shall constitute a City Default and the District may proceed with any and all District Remedies as defined in Clause 31 (DEFAULTS AND REMEDIES), and this Lease shall be subject to termination at District's option.

F. District shall have no obligation or responsibility to dredge, remove debris, or to maintain, repair, or replace improvements constructed within the Premises, except as otherwise required by law. City shall have no obligation to dredge the Premises nor to maintain, supervise, repair or replace any improvements installed by District or any other party (other than City's Licensees) nor for debris or materials which are not deposited by City or its Licensees, and which comes onto or out of the Premises.

G. City shall be responsible for routine and detailed inspections of the Premises to self-identify, maintain and repair the Premises as shown depicted in **Exhibit B**, attached hereto and by this reference incorporated herein. This includes items such as trash removal, encampment mitigation, vegetation trimming, bridge abutment washouts, removing obstructions, graffiti abatement, irrigation and landscaping repairs or modifications.

H. City shall also conduct Premises and Channel inspections prior, during and post rain events to ensure the facilities are fully functional and free of obstructions.

I. City acknowledges there are four City-owned pedestrian bridges, and two irrigation line crossings ("City Crossings") operated and maintained solely by the City over the District's Channel easement which is outside the Premises but within the City owned portion of Dad Miller Golf Course per Permit No. 1961-0941 as amended ("Permit") attached hereto as **Exhibit C**, and that City's Permit obligations remain in full force and effect, unmodified by this Lease. City agrees to repair riprap damage and perform any other required maintenance at City Crossings in accordance with the Permit throughout the term of this Lease.

J. If the City requests and receives authorization from District to modify, reconstruct or construct new City Crossings or any improvements upon the Premises or Channel, City shall apply for an encroachment permit from the District prior to the start of any such work, and if approved City shall maintain such improvements or construction in perpetuity.

K. The City has an existing permit no. FE25-0130 that is limited to well water discharge into the Channel. The City also requires the ability to pump water out of the Premises into Channel after periods of flooding. All discharges to the Channel require a current water discharge permit, which can be obtained through the County Permit Process or by amending the existing permit to include this additional activity, except for discharges into the Channel subsequent to a severe weather event. City shall apply for such permit and District shall review and approve the permit, which approval shall not be unreasonably withheld.

#### **17. CONSTRUCTION AND/OR ALTERATIONS BY CITY (2.6 SR)**

A. District's Consent. No grading shall take place, nor any construction, structures, improvements, or facilities be built, erected, altered, or made within the Premises without prior written consent of District's Chief Engineer. No pumping equipment shall be installed upon the Premises without first obtaining prior approval of such installation from the Chief Engineer. Any conditions relating to the manner, method, design, and construction of said structures, improvements, or facilities required by the District as a condition to granting such consent, shall be conditions hereof as though originally stated herein. City may, at any time, at its sole expense, install, and replace business fixtures and equipment constructed by City, within the Premises.

B. Strict Compliance with Plans and Specifications. All improvements constructed by City within the Premises shall be constructed in strict compliance with detailed plans and specifications approved by District's Chief Engineer and to the extent applicable, in compliance with the requirements of California Public Contract Code Section 22000 *et seq.*, which requires those improvements to be constructed as if such improvements had been constructed under the direction and supervision, or under the authority, of District.

C. Permits. All District-approved improvements to the Premises installed or constructed by City shall be constructed in accordance with valid permits and all applicable laws and in a good and workmanlike manner, including, but not limited to, (a) City shall be required to secure the faithful performance of construction and completion of construction of the improvement by appropriate contractor's bonds as required by the California Public Contracts Code and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the District and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided in Clause 30 (LABOR CODE COMPLIANCE) of this Lease; and (b) To the extent required by applicable law, City shall comply, and shall cause any of its Sublessees, licensees, contractors and subcontractors to comply, with all County of Orange ordinances and public contracting laws regarding public works contracts, including, but not limited to, the bidding requirements under the California Public Contracts Code. City shall publicly advertise bids for such improvements and shall provide District a list of all bids received for the contract; and (c) thereafter, with the prior written approval of District as to the winning bid, City shall award the contract or contracts for such improvements.

All preparation and processing for environmental clearance shall be at City's sole cost and expense. In the event that the environmental process results in any required mitigation measures, performance of such mitigation measures, including all associated costs and expenses shall be the sole responsibility of City.

District has no obligation to notify City regarding requirements for permits, licenses, approvals or other consents from governmental agencies, including the County of Orange in its regulatory capacity, nor shall District have any obligation to obtain permits, licenses, approvals or other consents from governmental agencies on behalf of City. District agrees to give its consent as property owner to any application made with regard to any such permits, licenses, approvals or other consents that may be required by any governmental agency or by the County of Orange in its regulatory capacity related to activities or design and construction of improvements approved by District in accordance with this Lease. Any such consent given by District as the property owner is not to be interpreted to obligate District to pay any fees related to the application or issuance of any such permit, license, approvals or

other consents, nor shall such consent be deemed a waiver of any fee that may be charged by County's Property Permit department. Any conditions placed on City's design and construction or operation of the Premises as a result of the issuance of permits, licenses, approvals or other consents shall be the sole obligation of City with regard to performance responsibilities, cost and expense.

Any approvals or consents given by District under this Lease, as a party to this Lease, shall not be deemed approval as to compliance or conformance with applicable governmental codes, laws, rules and/or regulations or approval from the standpoint of structural safety, suitability for purpose or conformance with building or other codes or other governmental requirements nor shall District, as a party to this Lease be responsible for permitting of any construction and/or maintenance, design, assumptions or accuracy of City's construction and/or maintenance plans.

All planning and architectural/design costs required to accomplish the construction shall be City's responsibility and shall be approved by the Director. Such approvals will not be unreasonably withheld or delayed and shall not relieve City of the responsibility for complying with all applicable codes and construction requirements, nor of obtaining necessary permits or approvals from the authorities of proper jurisdiction.

#### **18. "AS-BUILT" PLANS AND CONSTRUCTION COSTS (PMD5.1 N)**

Within 60 days following completion of any facilities or structures within the Premises for which Record Drawings ("**As-Built**") plans are prepared by the City or their contractor, City shall furnish Chief Engineer a complete set of digitally reproducible files and two sets of prints of the As-Built plans.

- Record Drawings: All CAD files are to be converted to Acrobat Reader (\*.pdf format), which shall constitute the digitally reproducible files, and shall be in accordance with OC Public Works CAD Standards Manual.

City shall also furnish the Chief Engineer with all CAD data files, which shall be in the following software format:

- AutoCAD format; Microsoft Windows based system: Submission of all CAD data files shall be in accordance with OC Public Works CAD Standards Manual

No other formats are acceptable. Chief Engineer reserves the right to reject CAD files delivered in any other formats not specified above.

In addition, City, shall furnish Chief Engineer the recorded Notice of Completion ("NOC") for such improvement.

#### **19. OWNERSHIP OF IMPROVEMENTS (2.7 SR)**

City shall provide all equipment necessary for use of the Premises consistent with this Lease. All improvements, and facilities, exclusive of trade fixtures, constructed or placed within the Premises by City ("**City Improvements**") must, upon completion, be free and clear all liens, claims, or liability for labor or material and at District's option shall become property of District at the expiration of this Lease or upon earlier termination hereof. Alternatively, District retains the right to require City, at City's cost, to remove all City Improvements located on the Premises at the expiration or termination hereof. In the event that City fails to remove said City Improvements within fifteen (15) days following receipt of written notice from District to do so, such City Improvements will be deemed abandoned, and City shall lose all right, title and interest in and thereto, and District may elect (i) at City's cost, to remove, demolish, or otherwise dispose of some or all of such items or (ii) sell or make use of any or all such items.

**20. OPERATIONAL REQUIREMENTS OF CITY (2.8 SR)**

A. Quality and Service Standards. City shall at all times operate the Premises in a manner consistent with Clause 3 (USE).

B. Standards of Operation. City shall operate the Premises in a manner similar to other comparable facilities within the City that offer similar services and amenities. City shall, at its sole expense, take reasonable steps to provide security measures for the protection of persons and property within the Premises.

C. Protection of Environment. City shall not permit:

1. Littering within the Premises.
2. Discharge or runoff of pollutants, including petroleum products, waste and debris from any source on the Premises into the waters within or adjacent to the Premises or other activities that are harmful to water quality. 3. City shall immediately report any spillage, leakage, or discharge of any toxic, hazardous or polluting materials to the proper authorities and to District.

Failure by City to comply with 20.C. of this Clause shall result in City Default and District shall have the right to exercise any remedy available to it by virtue of such City Default in addition to any District Remedies defined in Clause 31 (DEFAULTS AND REMEDIES).

D. On-Site Management City shall designate to District a facility manager (“**Facility Manager**”) who shall be responsible for the day-to-day operation and maintenance of the Premises. City shall notify District in writing of the name and contact information of the Facility Manager, as well as successor managers, in the manner as provided in Clause 64 (NOTICES) below.

**21. MECHANICS LIENS OR STOP-NOTICES (2.9 SR)**

City shall at all times indemnify, defend with counsel approved in writing by District and save District harmless from all claims, losses, demands, damages, cost, expenses, or liability costs for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities within the Premises, and from the cost of defending against such claims, including attorney fees and costs.

In the event a lien or stop-notice is imposed upon the Premises as a result of such construction, repair, alteration, or installation, City shall either:

- A. Record a valid Release of Lien, or
- B. Procure and record a bond in accordance with Section 3143 of the Civil Code, which frees the Premises from the claim of the lien or stop-notice and from any action brought to foreclose the lien.

Should City fail to accomplish either of the two optional actions above within fifteen (15) days after the filing of such a lien or stop-notice, the City shall be in City Default and shall be subject to immediate termination.

## 22. INSURANCE (3.0 SR)

City will submit its letter of self-insurance and requisite Certificates of Insurance in alternative compliance with County's stated insurance requirements, which are as follows:

City agrees to purchase all required insurance or maintain a program of self-insurance at City'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 Lease 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 Lease.

City agrees that City shall not operate on the Lease 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 the District. In no case shall assurances by City, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. District will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. City also agrees that upon cancellation, termination, or expiration of City's insurance, District may take whatever steps are necessary to interrupt any operation from or on the Premises until such time as the District reinstates the Lease.

If City fails to provide District with a valid certificate of insurance and endorsements, or binder at any time during the term of the Lease, District and City agree that this shall constitute a material breach of the Lease. Whether or not a notice of default has or has not been sent to City, said material breach shall permit District to take whatever steps necessary to interrupt any operation from or on the Premises, and to prevent any persons, including, but not limited to, members of the general public, and City's employees and agents, from entering the Premises until such time as District is provided with adequate evidence of insurance required herein. City 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.

City may occupy the Premises only upon providing to District the required insurance stated herein and maintain such insurance for the entire term of this Lease. District reserves the right to terminate this Lease at any time City's insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. City shall pay District a fee of \$1000.00 for processing the reinstatement of the Lease. City shall provide to District immediate notice of said insurance cancellation or termination.

All contractors performing work on behalf of City pursuant to this Lease shall obtain insurance subject to the same terms and conditions as set forth herein for City. City shall not allow contractors or subcontractors to work if contractors have less than the level of coverage required by the District from the City under this Lease. It is the obligation of the City 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 Premises. Such proof of insurance must be maintained by City through the entirety of this Lease and be available for inspection by a District representative at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the District's Risk Manager, or designee. The District reserves the right to require current audited financial reports from City. If City is self-insured, City will indemnify and defend District for any and all claims resulting or arising from City's use of the Premises or performance in accordance with the indemnity provision stated in this Lease.

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**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

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 City shall provide the minimum limits and coverage as set forth below:

<u>Coverages</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 combined single limit each accident
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence
Pollution Liability	\$1,000,000 per claims made or occurrence
Commercial Property Insurance on an "All Risk" or "Special Causes of Loss" basis covering all, contents and any City improvements including Business Interruption/Loss of Rents with a 12-month limit.	100% of the Replacement Cost Value and no coinsurance provision

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 at least as broad.

**Required Endorsements**

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

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

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

- 1) An Additional Insured endorsement naming the Orange County Flood Control District, County of Orange, its elected and appointed officials, officers, employees, and agents, and as Additional Insureds.
- 2) A primary non-contributory endorsement evidencing that City's insurance is primary, and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

Pollution Liability insurance must include coverage for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs arising out of, pertaining to, or in any way related to the actual or alleged discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants resulting from any services or work performed by, or behalf of, TENANT, including the transportation of hazardous waste, hazardous materials, or contaminants.

If City's Pollution Liability policy is a claims-made policy, City 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 Lease.
- 2) Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Lease.
- 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, TENANT must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination of the Lease.

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

The Commercial Property policy shall contain a Loss Payee endorsement naming the District as respects the District's financial interest when applicable.

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).

Insurance certificates should be forwarded to the District address provided in Clause 65 (NOTICES) below or to an address provided by Director. City has ten (10) business days to provide adequate evidence of insurance, or this Lease may be cancelled.

District expressly retains the right to require City to increase or decrease insurance of any of the above insurance types throughout the term of this Lease. 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 City in writing of changes in the insurance requirements. If City 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 Lease may be in breach without further notice to City, 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 City's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease, nor in any way to reduce the policy coverage and limits available from the insurer.

### **23. INDEMNIFICATION (3.1 SR)**

City agrees to indemnify, defend (at City's option), and hold harmless the County of Orange ("**County**") and District, their officials, officers, and employees (also referred to as "**Indemnified Parties**") from and against any and all claims, demands, defense costs, liability, expense, or damages of any kind or nature arising out of or in connection with City's use and/or occupancy of the Premises, or arising out of any act or omission of City or any of City's employees, agents, contractors, representatives, patrons, guests, or invitees; excepting such claims, demands, defense costs, liability, expense, or damages arising out of the sole negligence of one or more of the Indemnified Parties.

Notwithstanding the provisions of the above paragraph, City further agrees to assume all risk, and to indemnify, defend, and hold harmless the Indemnified Parties from and against any and all claims, demands, defense costs, liability, expense, or damages of any kind or nature arising out of or in connection with damage to or loss of any property belonging to District or District's employees, exhibitors, contractors, representatives, patrons, guests, or invitees. It is understood by the parties that, should City wish to attempt to mitigate its liability for damage to or loss of the property of its contractors, it is the sole responsibility of City to ensure that City's agreements with its contractors contain wording holding County, District and the Indemnified Parties harmless for such loss or damage; however, the inclusion or exclusion of such language in no way diminishes City's liability or responsibility to the Indemnified Parties under this paragraph.

City further agrees to indemnify District for damage to or loss of District property arising out of or in connection with City's use and/or occupancy of the Premises or arising out of any act or omission of City or

any of City's employees, agents, contractors, representatives, patrons, guests, or invitees; excepting such damage or loss arising out of the sole negligence of one or more of the Indemnified Parties.

#### **24. HAZARDOUS MATERIALS (3.2 SR)**

A. Definition of Hazardous Materials. For purposes of this Lease, the term "**Hazardous Materials**" shall mean any hazardous or toxic substance, material, product, byproduct, or waste that is or shall become regulated by any governmental entity, including, without limitation, District, acting in its governmental capacity, the State of California or the United States government.

B. Use of Hazardous Materials. City or City's employees, agents, independent contractors or invitees (collectively "**City Parties**") shall not cause or authorize any Hazardous Materials to be brought upon, stored, kept, used, generated, released into the environment or disposed of on, under, from or about the Premises (which for purposes of this clause shall include the subsurface soil and ground water). Notwithstanding the foregoing, City and City Parties may keep on or about the Premises small quantities of Hazardous Materials that are used in the ordinary, customary, and lawful cleaning of and business operations on the Premises. Said permitted Hazardous Materials shall be stored in a safe location and shall be disposed of in a manner provided by law.

C. City Obligations. If the presence of any Hazardous Materials on, under or about the Premises caused or authorized by City or City Parties results in (i) injury to any person, (ii) injury to or contamination of the Premises (or a portion thereof), or (iii) injury to or contamination of any real or personal property wherever situated, City, at its sole cost and expense, shall promptly take all actions necessary or appropriate to return the Premises to the condition existing prior to the introduction of such Hazardous Materials to the Premises and to remedy or repair any such injury or contamination. Without limiting any other rights or remedies of District under this Lease, City shall pay the cost of any such cleanup or remedial work performed on, under, or about the Premises as required by this Lease or by applicable laws in connection with the removal, disposal, neutralization or other treatment of such Hazardous Materials caused or authorized by City or City Parties to be introduced on, under or about the Premises. Notwithstanding the foregoing, City shall not take any remedial action in response to the presence, discharge or release, of any Hazardous Materials on, under or about the Premises caused or authorized by City or City Parties, or enter into any settlement agreement, consent decree or other compromise with any governmental or quasi-governmental entity without first obtaining the prior written consent of the Director, which consent shall not be unreasonably withheld, conditioned or delayed. All work performed or caused to be performed by City 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, which approval shall not be unreasonably withheld, conditioned or delayed.

#### **25. BEST MANAGEMENT PRACTICES (3.3 SR)**

A. City shall conduct operations under this Lease 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).

B. The Santa Ana Regional Water Quality Control Board has issued National Pollutant Discharge Elimination System ("**NPDES**") permits ("**Stormwater Permits**") to the County, 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 DISTRICT, including the Premises leased

under this Lease. 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.

C. To assure compliance with the Stormwater Permits and water quality ordinances, the District has developed a Drainage Area Management Plan (“DAMP”) which includes a Local Implementation Plan (“LIP”) for each jurisdiction, that contains Best Management Practices (“BMP(s)”) as provided in Exhibit D, and which may change from time to time, while that the City is using District properties within Orange County that City 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 stormwater runoff in a cost effective manner. These BMPs are found within 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-stormwater discharges and minimize the impact of pollutants on stormwater runoff.

D. BMP Fact Sheets that apply to uses authorized under this Lease include the BMP Fact Sheets that are attached hereto as Exhibit E. These BMP Fact Sheets may be modified during the term of the Lease; and District shall provide City with any such modified BMP Fact Sheets. City, City’s agents, contractors, representatives and employees and all persons authorized by City to conduct activities on the Premises shall, throughout the term of this Lease, comply with the BMP Fact Sheets as they exist now or are modified, and shall comply with all other requirements of the Stormwater Permits, as they exist at the time this Lease commences or as the Stormwater Permits may be modified. City agrees to maintain current copies of the BMP Fact Sheets on the Premises throughout the term of this Lease. The BMPs applicable to uses authorized under this Lease must be performed as described within all applicable BMP Fact Sheets.

E. City 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 District for review and approval prior to implementation.

F. District may enter the Premises and/or review City’s records at any time to assure that activities conducted on the Premises comply with the requirements of this clause. City may be required to implement a self-evaluation program to demonstrate compliance with the requirements of this clause.

G. Among other requirements, the industrial NPDES permit requires periodic stormwater inspections by the State and/or District OC Watersheds staff to ensure facility compliance, which may include annual inspections of the Premises, and Channel with follow up inspections as a result of observed violations requiring corrective actions.

H. Dependent upon the reuse of the Premises, the Premises shall have a clarifier drain that captures low flow runoff from throughout the site, which ensures all flows are properly drained without any unacceptable runoff. City shall conduct their work throughout the site and any resultant low flow discharges shall work their way to the clarifier. In regard to City Improvements, City shall designate operational zones minimally affected by storm flows that allow drainage to the clarifier, and the non-operational portions of the site are to have normal storm discharges going through the storm drain system. As the site undergoes a new NPDES Industrial Permit application process, these conditions may get re-examined.

I. The BMP’s shall stipulate the process for the City to take corrective actions and state the consequences of non-compliance or District options under the Lease to self-remedy the matter. The Santa Ana and San Diego Regional Water Quality Control Boards have established penalties/consequences for non-compliance and

## Attachment C

those are to be included in this Lease. District to have the option to terminate the Lease if the City does not correct a non-compliance situation in a timely manner and that the security deposit reflects this circumstance.

J. Work activities are to be conducted in a controlled area where pollutants shall be contained, and any heavy metals detected at significantly higher levels than the benchmarks set by the Regional Board shall be addressed. All applicable BMPs are to be properly implemented, including any and all future modifications, updates, or replacement BMPs that may be issued from time to time, shall be used by City.

K. Site modifications, such as distinctly designated work areas with controls to prevent pollutants from escaping and wastewater drain, will be required to be segregated from stormwater drain.

L. In the event City fails to comply with all applicable BMPs, District, in addition to any and all remedies available in Clause 31(DEFAULTS AND REMEDIES), shall have the right to self-help remedies or terminate the Lease as follows:

1. Terminate the Lease due to non-compliance with the BMPs incorporated in the Lease and as BMPs may change from time to time, or;
2. Remedy a non-compliance situation with a chargeback to the City for the cost. The details regarding notification, timeline, and procedure are to be drafted and mutually agreed upon by both Parties to ensure all water quality issues are addressed within the Lease. In the event the City's BMP implementation is lacking or if the City allows a prohibitive discharge to occur, then the Regional Board will only take enforcement action against District. Therefore, this Lease must establish a BMP compliance partnership with the City, and the Lease must ensure the protection of water quality is inherent in the City's day-to-day operations.

## **26. BUILDING AND SAFETY REQUIREMENTS (3.4 SR)**

If applicable to any improvements on the Premises or to be later constructed by the City, during the Term and any Extension Term(s) of this Lease, City agrees to maintain the Premises in compliance with all applicable laws, rules, regulations, building codes, statutes, and orders, including but not limited to the California Building Code, Title 24, Seismic Code, Fire and Life Safety requirements and, if applicable, California Green Building Standard Code.

Included in this provision is compliance with the Americans with Disabilities Act ("ADA") and all other federal, state, and local codes, statutes, and orders relating to disabled access as they are applicable on the dates of this Lease, and as they may be subsequently amended, and all regulations issued by the U. S. Attorney General or other agencies under the authorization of the ADA. However, City shall not be responsible for any ADA violations resulting from alterations made by District or the placement of fixtures or equipment by District.

If applicable, City shall use commercially reasonable efforts to repair and maintain the Premises as a "safe place of employment," as defined in the California Occupational Safety and Health Act (California Labor Code, Division 5, Part 1, Chapter 3, beginning with Section 6400) and the Federal Occupational Safety and Health Act, where the provisions of such Act exceed, or supersede, the California Act, as the provisions of such Act are applicable on the date of this Lease, and as they may be subsequently amended. District agrees to notify City of any repair or maintenance necessary within the Premises to comply with such Act and City agrees to diligently act to repair or maintain appropriately.

**27. DAMAGE TO OR DESTRUCTION OF CITY IMPROVEMENTS (3.5 SR)**

City Improvements shall be maintained at the sole risk of the City, and District shall not be liable for any loss of or damage to said property resulting from any cause whatsoever unless such loss or damage is the result of District's negligence or willful misconduct and not otherwise waived pursuant to Clause 4 (DISTRICT'S USE RESERVATIONS AND RIGHT OF ENTRY) above.

As a result of use by the City and in the event of damage to or destruction of City Improvements located within the Premises or in the event City Improvements located within the Premises are declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, City shall, within thirty (30) days, commence and diligently pursue to completion the repair, replacement, or reconstruction of City Improvements to the same size and area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the Premises for the purposes required by the Lease. Repair, replacement, or reconstruction of City Improvements within the Premises shall be accomplished in a manner and according to plans approved by the Director. Except as otherwise provided herein, termination of this Lease shall not reduce or nullify City's obligation under this paragraph. With respect to damage or destruction to be repaired by District or which District elects to repair, City waives and releases its rights under California Civil Code Sections 1932 (2) and 1933 (4).

District shall not be liable for any damage to City Improvements located on the Premises, nor for the loss of or damage to any improvements of City or others by theft or otherwise. All improvements of City located or kept on the Premises shall be so kept or located at the risk of City unless such damage is caused by District willful misconduct or gross negligence.

**28. CITY PERSONAL PROPERTY**

City personal property kept or stored on the Premises shall be kept or stored and maintained at the risk of City and District shall not be liable for any loss of or damage to said property resulting from any cause whatsoever unless such loss or damage is the result of District's negligence or willful misconduct and not otherwise waived pursuant to Clause 4 (DISTRICT'S USE RESERVATIONS AND RIGHT OF ENTRY) above.

If City abandons or quits the Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to and left on the Premises fifteen (15) days after such event shall, at District's option, be deemed to have been transferred to District. District shall have the right to remove and to dispose of such property without liability therefor to City or to any person claiming under City and shall have no need to account therefor.

**29. ASSIGNMENT AND SUBLETTING (3.5 SR)**

Subject to prior review and approval by District, City may allow for the rental, licensing, permitting, or subletting, etc. of the Premises when doing so results in providing for the uses permitted in Clause 3 (USE) above. Any mortgage, pledge, hypothecation, encumbrance, transfer, sublease, license, permit, or assignment (hereinafter in this clause referred to collectively as "**Encumbrance**") of City's interest in the Premises, or any part or portion thereof without the prior written approval of District is prohibited. All Encumbrances are subject to District's review and approval, including those Encumbrances that result in providing for the uses permitted in Clause 3 (USE) above. District approval is subject to negotiation by the Parties and may result in additional charges for Rent and/or Additional Rent as those terms are defined and used in Clause 9 (RENT) above. District may reasonably withhold such approval.

Should District consent to any Encumbrance, such consent shall not constitute a waiver of any of the terms, covenants, or conditions of this Lease or be construed as District's consent to any further Encumbrance. Such terms, covenants or conditions shall apply to each and every Encumbrance hereunder and shall be severally binding upon each and every party thereto. Any document to mortgage, pledge, hypothecate, encumber, transfer, sublet, or assign the Premises or any part thereof shall not be inconsistent with the provisions of this Lease and in the event of any such inconsistency, the provisions of this Lease shall control.

City may, with prior notice, engage the services of a professional management company and such employment shall not be construed to be an assignment or transfer of the Lease. Any license, sublease, permit, etc. issued by City shall be consistent with and subject to the terms and conditions of this Lease and shall be subject to review and approval by the District, whose approval shall not be unreasonably withheld. Each license, sublease, permit, etc. issued by City shall require adequate insurance, , with District and the County of Orange named as additional insured, and the Licensees shall indemnify the District and the County of Orange, its elected officials, agents, officers, and employees.

### 30. TAXES AND ASSESSMENTS (3.6 SR)

All taxes and assessments including, but not limited to, possessory interest tax, which become due and payable upon the Premises shall be the full responsibility of City, and City shall cause said taxes and assessments to be paid prior to the due date. Should City fail to pay taxes and assessments due upon the Premises prior to the due date, District may pay such amount due and add the cost thereof, including overhead, to the Monthly Rent thereafter payable.

### 31. ESTOPPEL CERTIFICATE (3.7 SR)

City shall furnish upon receipt of a written request from DISTRICT an estoppel certificate on District's standard form *Estoppel Certificate* (attached hereto in Exhibit F containing information as to the current status of the Lease. Said standard form *Estoppel Certificate* shall be completed by City in a timely manner. The *Estoppel Certificate* shall be approved by Chief Real Estate Officer and County Counsel.

### 32. DEFAULTS AND REMEDIES (3.8 SR)

**A. City Default:** City shall be deemed in default of this Lease if: a) in the event of any monetary breach of this Lease by City, District shall notify City in writing of such breach, and City shall have three (3) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, City fails within fifteen (15) days after receipt by City of written notice specifying wherein such obligation of City has not been performed; provided however, that if the nature of City's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then City shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a "City Default").

**B. District Default:** District shall be deemed in breach of this Lease if: a) in the event of any monetary breach of this Lease by District, City shall notify District in writing of such breach, and District shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, District fails within fifteen (15) days after receipt by District of written notice specifying wherein such obligation of District has not been performed; provided however, that if the nature of District's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then DISTRICT shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a "District Default").

C. **City Remedies:** In the event of a District Default, the City may, at the City's sole discretion, terminate the Lease, or shall have the right to injunctive relief (collectively, "**City Remedies**"). No delay or omission of City to exercise any right or remedy shall be construed as a waiver of such right or remedy or of any District Default hereunder.

D. **District Remedies:** If the City Default is a result of a monetary breach by City in the payment of the Rent or Reduced Rent, pursuant to Clause 9 (RENT), District may, at the District's sole discretion, declare all Rent payments to the end of City's current fiscal year to be due, including any delinquent rent from prior budget years or terminate the Lease. District's remedies as the result of City Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, and/or any other rights at law or in equity. No delay or omission of District to exercise any right or remedy shall be construed as a waiver of such right or remedy or of any City Default hereunder.

### 33. LABOR CODE COMPLIANCE (3.9 SR)

City acknowledges and agrees that any and all improvements or modifications required to be performed by Lessor at the request of District 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, the Orange District Board of Supervisors has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this Lease for each craft, classification, or type of workman needed to execute the aforesaid improvements or modifications from the Director of the State Department of Industrial Relations. Copies of said prevailing wage rates may be obtained from the State of California, Department of Industrial Relations or Chief Real Estate Officer.

City hereby agrees to pay or cause its contractors and/or subcontractors to pay said prevailing wage rates at all times for all improvements or modifications to be completed for City within the Premises, and City herein agrees that City shall post, or cause to be posted, a copy of the most current, applicable prevailing wage rates at the site where the improvements or modifications are performed.

Prior to commencement of any improvements or modifications, City shall provide Director with the applicable 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. City shall provide Director bi-weekly updated, certified payroll records for all workers that include, but not be limited to, the weekly hours worked, prevailing hourly wage rates, and total wages paid.

If City fails to comply with this clause, such occurrence may constitute an event of default of this Lease and District may, notwithstanding any other termination provisions contained herein:

- A. Terminate this Lease upon written notice to City; or
- B. At District's sole option, District may deduct from City's Security Deposit, as a penalty for such non-compliance of paying prevailing wage, which Security Deposit deduction would be District's estimate, in its sole discretion, of such prevailing wage rates not paid by City.

Except as expressly set forth in this Lease, nothing herein is intended to grant authority for City to perform improvements or modifications on space currently leased by District or for which District has entered into a lease or lease amendment.

#### **34. RIGHT TO WORK AND MINIMUM WAGE LAWS (4.0 SR)**

In accordance with the United States Immigration Reform and Control Act of 1986, City shall require its employees that directly or indirectly service the Premises or terms and conditions of this Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. City shall also require and verify that its contractors or any other persons servicing the Premises or terms and conditions of this Lease, 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, City shall pay no less than the greater of the Federal or California Minimum Wage to all its employees that directly or indirectly service the Premises, in any manner whatsoever. City shall require and verify that all its contractors or other persons servicing the Premises on behalf of the City also pay their employees no less than the greater of the Federal or California Minimum Wage.

City 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 Premises or terms and conditions of this Lease.

Notwithstanding the minimum wage requirements provided for in this clause, City, where applicable, shall comply with the prevailing wage and related requirements, as provided for in Clause 32 (LABOR CODE COMPLIANCE) of this Lease.

#### **35. SIGNAGE (4.2 SR)**

City may install and maintain wayfinding and golf course signs upon or in front of the Premises. Such signage must comply with all applicable laws, zoning, and site plan requirements. Unapproved signs, awnings, banners, flags, etc., may be removed by District without prior notice to City. All other signs to be placed on the Premises require prior review and approval by District.

#### **36. AUTHORITY (4.3 SR)**

The persons executing this Lease on behalf of District or City warrant that they have the power and authority to bind District or City to this Lease.

#### **37. LEASE ORGANIZATION (4.4 SR)**

The various headings in this Lease, the numbers thereof, and the organization of the Lease into separate sections and paragraphs are for purposes of convenience only and shall not be considered otherwise.

#### **38. SUCCESSORS IN INTEREST (4.5 SR)**

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the Parties hereto, all of whom shall be jointly and severally liable hereunder.

**39. AMENDMENT (4.6 SR)**

This Lease sets forth the entire agreement between District and City regarding the Premises and no other prior or contemporaneous agreement or understanding, written or oral, shall be effective. Any modification of this Lease must be in the form of a written amendment.

**40. PARTIAL INVALIDITY (4.7 SR)**

If any term, covenant, condition, or provision of this Lease 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.

**41. WAIVER OF RIGHTS (4.8 SR)**

The failure of City or District to insist upon strict performance of any of the terms, conditions, and covenants in this Lease shall not be deemed a waiver of any right or remedy that City or District may have and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained.

**42. HOLDING OVER (4.9 SR)**

In the event City shall continue in possession of the Premises after the term of this Lease, such possession shall not be considered a renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease, subject to termination by the District as provided herein.

**43. EARTHQUAKE SAFETY (5.0 SR)**

City accepts the Premises "as is" and "where is" and District offers no warranties or representations whatsoever that the Premises is or has been in compliance with applicable seismic safety regulations and building codes at the time of construction. All such seismic, safety and building regulation compliance is the responsibility of the City.

**44. QUIET ENJOYMENT (5.1 SR)**

District agrees that, subject to the terms, covenants and conditions of this Lease, City may, upon observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises.

**45. GOVERNING LAW AND VENUE (5.3 SR)**

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.

**46. ATTORNEYS' FEES (5.4 SA)**

In the event of a dispute between City and District concerning claims arising out of this Lease, or in any action or proceeding brought to enforce or interpret any provision of this Lease or where any provision hereof is

validly asserted as a defense, each Party shall bear its own attorney fees and costs.

#### 47. TIME (5.5 SR)

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

#### 48. INSPECTION OF PREMISES BY A CERTIFIED ACCESS SPECIALIST (5.6 SR)

A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or Lessor may not prohibit the City from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the City, if requested by the City. The Parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

Pursuant to California Civil Code 1938, District hereby represents that the Premises has not undergone an inspection by a certified access specialist and no representations are made with respect to compliance with accessibility standards. If it is determined during this tenancy that a violation of handicapped access laws (including the Americans with Disabilities Act) exists at the Premises, City shall correct such non-compliance at City's cost.

#### 49. FORCE MAJEURE (5.7 SR)

For purposes of this Lease, the term "**Force Majeure**" means any of the following events which are beyond the control of either Party: act of God, unavailability of equipment or materials (but only if such equipment and materials were ordered in a timely fashion), enemy or terrorist act, act of war, riot or civil commotion, strike, lockout or other labor disturbance, fire, earthquake, explosion, governmental delays (including nonstandard delays in issuance of any permit or other necessary governmental approval or the scheduling of any inspections or tests), and nonstandard delays by third party utility providers beyond the reasonable control of the Party delayed or failing to perform under this Lease despite such Party's best efforts to fulfill the obligation. "**Best Efforts**" includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. Force Majeure shall not include inability to obtain financing or other lack of funds. Lessor and District shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond its control.

#### 50. CONDEMNATION (5.8 SR)

If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively, "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If all or a material portion of the rentable area of the Premises are taken by Condemnation, City may, at City's option, to be exercised in writing within ten (10) days after District shall have given City written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. District shall also have the right to terminate this Lease if there is a taking by Condemnation of any portion of the building or property that would have a material adverse effect on District's ability to profitably operate the remainder of the

building. If neither Party terminates this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of District, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken or severance damages. City hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure, or any similar or successor Laws.

#### **51. CONSENT OR APPROVAL (5.9 SR)**

Unless expressly stated otherwise, where the consent or approval of a Party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed.

#### **52. UNENFORCEABLE PROVISIONS (6.0 SR)**

If any paragraph or clause hereof shall be determined illegal, invalid or unenforceable, it is the express intention of the Parties hereto that the remainder of the Lease shall not be affected thereby, and it is also the express intentions of the Parties hereto that in lieu of each paragraph or clause of this Lease which may be determined to be illegal, invalid or unenforceable, there may be added as a part of this Lease a paragraph or clause as similar in terms to such illegal or invalid or unenforceable paragraph or clause as may be possible and may be legal, valid and enforceable.

#### **53. CONTROL OF HOURS, PROCEDURES, AND PRICES (6.1 SR)**

Intentionally Deleted

#### **54. LIMITATION OF THE LEASEHOLD (6.2 SR)**

This Lease and the rights and privileges granted City in and to the Premises are subject to all covenants, conditions, restrictions, and exceptions of record or apparent. Nothing contained in this Lease or in any document related hereto shall be construed to imply the conveyance to City of rights in the Premises, which exceed those, owned by District, or any representation or warranty, either express or implied, relating to the nature or condition of the Premises or District's interest therein. City has accepted the Premises in its "as is" / "where is" condition.

#### **55. PERMITS AND LICENSES (6.3 SR)**

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

#### **56. PAYMENT CARD COMPLIANCE (6.4 SR)**

Should City conduct credit/debit card transactions in conjunction with their business with the District, on behalf of the District, or as part of the business that they conduct, City covenants and warrants that it is currently Payment Card Industry Data Security Standard ("PCI DSS") and Payment Application Data Security Standard ("PA DSS") compliant and will remain compliant during the entire duration of this Lease. City agrees to immediately notify District in the event City should ever become non-compliant and

will take all necessary steps to return to compliance and shall be compliant within ten (10) days of the commencement of any such interruption.

**57. NONDISCRIMINATION (6.5 SR)**

City agrees not to discriminate against any person or class of persons by reason of sex, age, race, color, creed, physical handicap, or national origin in employment practices and in the activities conducted pursuant to this Lease. City shall make its accommodations and services available to the public on fair and reasonable terms.

**58. CONDITION OF PREMISES UPON TERMINATION (6.6 SR)**

Except as otherwise agreed to herein, upon termination of this Lease, City shall re-deliver possession of said Premises to District in substantially the same condition that existed upon execution of this lease, reasonable wear and tear, County approved construction or modifications, flood, earthquakes, war, and any act of war, excepted. References to the "termination of the Lease" in this Lease shall include termination by reason of the expiration of the lease term.

**59. QUITCLAIM OF CITY'S INTEREST UPON TERMINATION (6.8 SR)**

Upon termination of this Lease for any reason, including but not limited to termination because of City Default, City shall execute, acknowledge, and deliver to District, within thirty (30) days after receipt of written demand therefor, a good and sufficient deed whereby all right, title, and interest of City in the Premises is quitclaimed to District. Should City fail or refuse to deliver the required deed to District, District may prepare and record a notice reciting the failure of City to execute, acknowledge, and deliver such deed and said notice shall be conclusive evidence of the termination of this Lease and of all rights of City or those claiming under City in and to the Premises.

**60. DISTRICT'S RIGHT TO RE-ENTER (PMGE23.1 S)**

City agrees to yield and peaceably deliver possession of the Premises to District on the date of termination of this Lease, whatsoever the reason for such termination.

Upon giving written notice of termination to City, District shall have the right to re-enter and take possession of the Premises on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the Lease and re-entry of the Premises by District shall in no way alter or diminish any obligation of City under the lease terms and shall not constitute an acceptance or surrender.

City waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Premises for any lawful reason or in the event District re-enters and takes possession of the Premises in a lawful manner.

**61. PUBLIC RECORDS (6.9 SR)**

Any and all written information submitted to and/or obtained by District from City or any other person or entity having to do with or related to this Lease and/or the Premises, either pursuant to this Lease 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 City hereby waives, for itself, its agents, employees, and any person claiming by, through or under City, 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 City 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.

**62. RELATIONSHIP OF PARTIES (7.0 SR)**

The relationship of the Parties hereto is that of Lessor and City, 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 venturer with City in the conduct of City's business or otherwise, and the provisions of this Lease 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.

**63. NO BROKERS USED (7.1 SR)**

Neither Party has employed any broker or finder or incurred any liability for any brokerage fee, commission, finder's fee, or reimbursement expenses in connection with the transactions contemplated by this Lease.

**64. NOTICES (7.2 SR)**

All written notices pursuant to this Lease shall be addressed as set forth below or as either Party may hereafter designate by written notice and shall be deemed received upon personal delivery, delivery by facsimile machine, electronic mail, or seventy-two (72) hours after deposit in the United States Mail.

TO: CITY

City of Anaheim  
 Attn: City Clerk  
 200 S. Anaheim Blvd.  
 Anaheim, CA 92805

With a copy to:  
 City of Anaheim  
 Attn: Director of Community Services  
 200 S. Anaheim Blvd, 4<sup>th</sup> Floor  
 Anaheim, CA 92805

TO: DISTRICT

Orange County Flood Control District  
 Attn: Director, Flood Programs  
 601 N. Ross Street 3<sup>rd</sup> Floor  
 Santa Ana, CA 92701

With a copy to:  
 District Executive Office  
 400 W. Civic Center Drive, 5th Floor  
 Santa Ana, CA 92701  
 Attn: Mat Miller, Chief Real Estate Officer

OC Operations & Maintenance  
 Attn: Maintenance Programs  
 2301 N. Glassell St.  
 Orange, CA 92865

**65. ATTACHMENTS TO LEASE (7.3 SR)**

This Lease includes the following, which are attached hereto and made a part hereof:

- I. Exhibit A – Legal Description of Premises
- II. Exhibit B – Map Depicting Premises
- III. Exhibit C – Permit No. 1961-0941
- IV. Exhibit D – Local Implementation Plan
- V. Exhibit E – Best Management Practices
- VI. Exhibit F – Estoppel Certificate

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

CITY  
CITY OF ANAHEIM,  
a municipal corporation and charter city

Date \_\_\_\_\_

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

Name: \_\_\_\_\_

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY  
ANAHEIM, CALIFORNIA

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

Date \_\_\_\_\_

APPROVED AS TO FORM:

OFFICE OF DISTRICT COUNSEL  
ORANGE COUNTY, CALIFORNIA

**DISTRICT**

ORANGE COUNTY FLOOD CONTROL DISTRICT

Signed by:  
By Lauren Kramer  
82ED369C9A1D4DE... Deputy

By: \_\_\_\_\_  
Thomas A. Miller, Chief Real Estate Officer  
Per M. O. dated: \_\_\_\_\_, 2026

Date 4/22/2026

**EXHIBIT A**

**LEGAL DESCRIPTION OF PREMISES**

Portions of  
Gilbert Retarding Basin  
Facility No.: B01B01

**PARCEL A**

**Not a Part**

That certain land in the City of Anaheim, County of Orange, State of California, described as PARCEL 1 in the Final Judgement of Condemnation recorded October 4, 1938 in book 957, page 131 of Official Records in the office of the County Recorder of said county.

EXCEPT that portion described as PARCEL B01-801.1 in the Grant Deed to Pacific American Properties, Inc. recorded December 14, 1972 in book 10470, page 1 of Official records in the office of said County Recorder.

ALSO EXCEPT that portion of the north 365.40 feet of the east 590 feet of the northeast quarter of the southeast quarter of Section 7, Township 4 South, Range 10 West, in the Rancho San Juan Cajon de Santa Ana, as shown on a map recorded in book 51, page 10 of Miscellaneous Maps in the office of said County Recorder, lying westerly of the west line of said PARCEL B01-801.1.

ALSO EXCEPT that portion lying southerly of a line that is parallel and concentric with and 39.50 feet northerly from the centerline of "ORANGE COUNTY FLOOD CONTROL CHANNEL" as shown on a Record of Survey recorded in book 50, pages 43 and 44 of Records of Survey in the office of said County Recorder.

**PARCEL B**

That certain land in the City of Anaheim, County of Orange, State of California, described as PARCEL 1 in the Final Judgment of Condemnation recorded October 4, 1938 in book 957, page 131 of Official Records in the office of the County Recorder of said county.

EXCEPT that portion described as PARCEL B01-801.1 in the Grant Deed to Pacific American Properties, Inc. recorded December 14, 1972 in book 10470, page 1 of Official records in the office of said County Recorder.

ALSO EXCEPT that portion of the north 365.40 feet of the east 590 feet of the northeast quarter of the southeast quarter of Section 7, Township 4 South, Range 10 West, in the Rancho San Juan Cajon de Santa Ana, as shown on a map recorded in book 51, page 10 of Miscellaneous Maps in the office of said County Recorder, lying westerly of the west line of said PARCEL B01-801.1.

ALSO EXCEPT that portion lying northerly of a line that is parallel and concentric with and 37.00 feet southerly from the centerline of "ORANGE COUNTY FLOOD CONTROL CHANNEL" as shown on a Record of Survey recorded in book 50, pages 43 and 44 of Records of Survey in the office of said County Recorder.

See sketch attached and by reference made a part.

APPROVED

*John D. Pavlik* Date: 9/25/02  
 John D. Pavlik L.S. 5168  
 Expiration Date: June 30, 2003

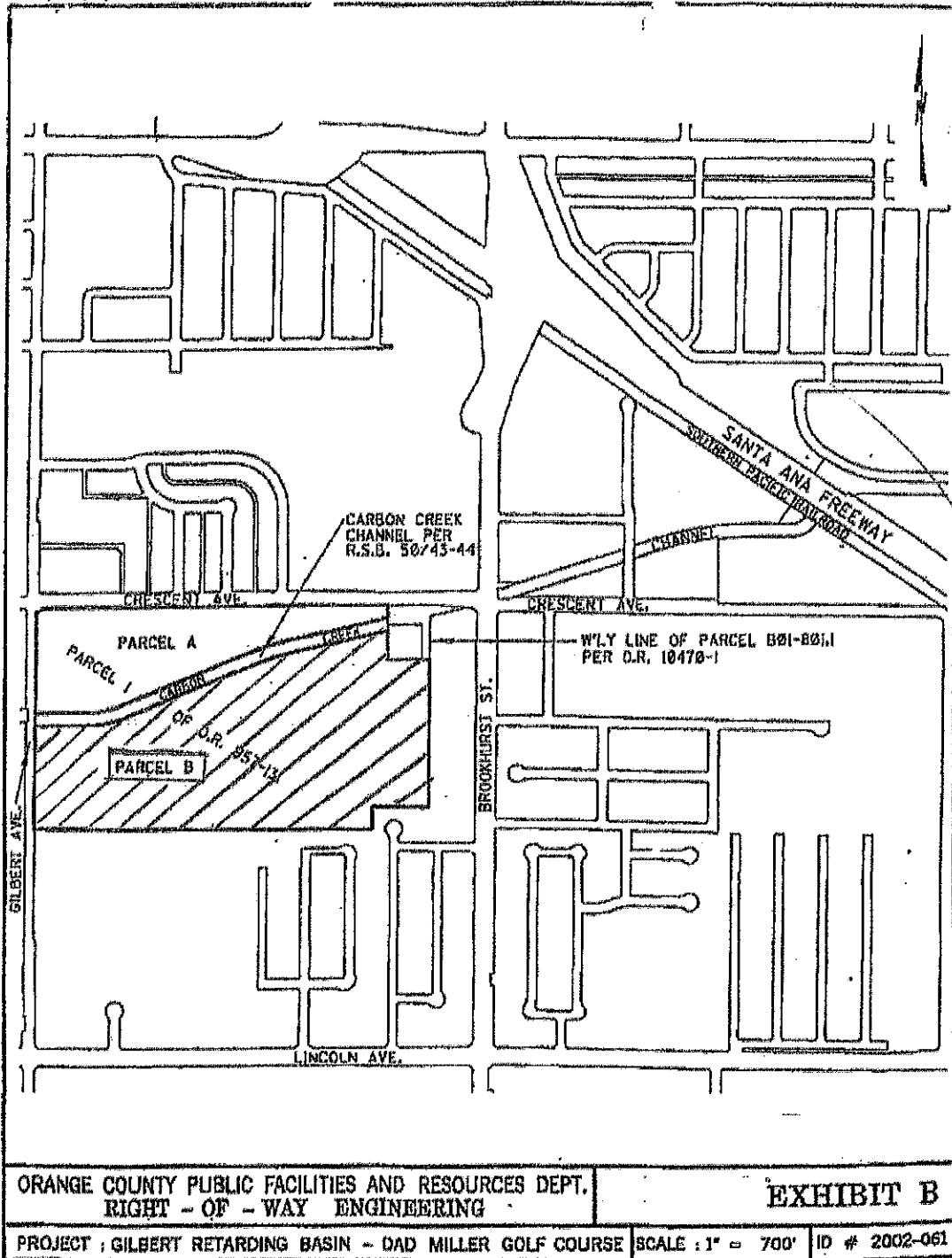


**EXHIBIT A**

**NOT TO BE RECORDED**

**EXHIBIT B**

**MAP DEPICTING PREMISES**



Attachment C

**EXHIBIT C**

Permit No. 1961-0941 (to be attached)

ORANGE COUNTY FLOOD CONTROL DISTRICT

PERMIT

1. PERMIT DATA

PERMITTEE: CITY OF ANAHEIM

BOI

PERMIT NUMBER

09461

EFFECTIVE DATE

AUG 8 1961

DISTRICT PROJECT: Carbon Creek Channel

EXPIRATION DATE

R/W CLASSIFICATION: "C"

Permanent

2. PERMITTED USE

The Orange County Flood Control District hereby grants permission to permittee to do the following, subject to provisions on reverse hereof:

To construct and maintain two pedestrian crossings within district's right of way of the Carbon Creek Channel at approximate Engineer's Stations 315+82 and 325+12, all in accordance with attached "City of Anaheim Pedestrian Crossings Plans."

3. PERMITTEE'S ACCEPTANCE

Permittee accepts permit and agrees to comply with and be bound by the terms thereof.

SPECIAL PROVISIONS

PERMITTEE

4. REVIEW BY COUNTY COUNSEL

Approved as to form:

ASSISTANT

5. APPROVAL OF PERMIT

A. Approved by Board of Supervisors of Orange County Flood Control District by order made and entered

APPROVED BY BOARD OF SUPERVISORS

AUG 8 1961

Attest

CLERK

DATE

DATE

CHAIRMAN, BOARD OF SUPERVISORS

B. Approved by Flood Control Engineer pursuant to authority delegated by Board of Supervisors by Resolution

No. \_\_\_\_\_ adopted \_\_\_\_\_

DATE

FLOOD CONTROL ENGINEER

PLANNING FILES

ORANGE COUNTY FLOOD CONTROL DISTRICT

**PERMIT**  
STANDARD PROVISIONS

1. PERMIT DATA

PERMIT NUMBER

00461

EXPIRES DATE

AUG 8 1981

EXPIRES DATE

1. Permittee agrees to save district, its officers, agents or employees, harmless from any and all penalties, liabilities or loss resulting from claims or court actions, arising directly or indirectly out of any damage or injury to persons or property by reason of the acts or omissions of the permittee, his agents, employees or independent contractors employed by him, in exercising any of the privileges herein granted or in consequence thereof.

2. Should any damage or injury to the district's works occur, either through the acts of agents, servants or employees of permittee or by any independent contractor of permittee in the exercise of the rights herein granted, permittee shall immediately, upon the written demand of district, restore such works to the condition of same on the date of the occurrence of said damage or injury at permittee's cost or expense. The question as to whether or not any such damage or injury has been caused to the works shall be determined by the Flood Control Engineer and his determination shall be final.

3. District reserves the right unto itself to perform any flood control work, upon any portion or all of the area covered by this permit, or to do any other work necessary at any time. Such work may be performed without incurring any liability of any nature whatsoever to the permittee. It is further understood and agreed that district reserves unto itself the rights of ingress and egress over all or any portion of the subject area.

4. Neither this permit nor any of the rights herein granted shall be assigned without the prior written approval of district.

Permittee accepts permit and agrees to comply with and be bound by the terms thereof.

SPECIAL PROVISIONS

PERMITTEE

(See Attached Schedule)

1. REVIEW BY COUNTY COUNSEL

Approved as to form:

ASSISTANT

2. APPROVAL OF PERMIT

A. Approved by Board of Supervisors of Orange County Flood Control District by order made and entered

APPROVED BY BOARD OF SUPERVISORS

AUG 8 1981

CHAIRMAN, BOARD OF SUPERVISORS

DATE

CLERK

Attest

B. Approved by Flood Control Engineer pursuant to authority delegated by Board of Supervisors by Resolution

No. adopted

FLOOD CONTROL ENGINEER

DATE

ANGE COUNTY FLOOD CONTROL DIST. F

09461

Permit No.

SPECIAL PROVISIONS

- A. Permittee shall install said crossings in accordance with the approved plans attached hereto and to the satisfaction of the district's inspector.
- B. At least 48 hours prior to the commencement of any work contemplated by this permit, permittee shall notify district's Maintenance Superintendent by telephone at JE 4-0336 or by writing, addressed to him at 13872 East Garden Grove Boulevard, Orange, California.
- C. City shall assume all maintenance responsibilities in regard to permitted crossings, including any channel repair work that may be necessary as a result of the construction, operation, or washout of the permitted crossings.
- D. Permittee agrees to save the district, its officers, agents and employees harmless from any and all penalties, liabilities or loss resulting from claims or court actions arising directly or indirectly from the use of the crossings by any person whatsoever.
- E. Reference is made to that certain agreement dated January 20, 1959 between district and permittee which apparently gives permittee the right to accomplish the work of this permit. This permit is being issued to make clear that permittee is responsible for all maintenance of the crossings and for any channel erosion caused by the crossings. This permit does not modify or change said agreement.

Attachment C

ORANGE COUNTY FLOOD CONTROL DISTRICT

File Permit

Construction & Maint. Division

No. 09461

Loc. B-1 Aug. 16, 1961

COMPLETION REPORT

Date Assigned 8/16/61

District Facility Carbon Creek Channel

Limits Sta. 315+82 and 325+12

Classification Pedestrian bridge

Refer. Date \_\_\_\_\_

Principal City of Anaheim

Center St.

Anaheim, Calif PRespect 4-6541

Feature \_\_\_\_\_

Install two pedestrian bridges

Remarks \_\_\_\_\_

We were not notified of the installation of these bridges. I understand they were put in on the 16th & 17th of August, 1961.

The above work was completed, August 22, 1961

in accordance with provisions of Plans submitted by City of Anaheim and District standards.

and as noted above. \_\_\_\_\_

- cc: Div. Engr.
- Design
- Planning
- Maint.

Signed P. B. Stuck

*P. B. Stuck*

Attachment C

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MINUTES OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY  
ACTING AS EX-OFFICIO BOARD OF SUPERVISORS OF  
ORANGE COUNTY FLOOD CONTROL DISTRICT

August 8, 1961

1160-56

A regular meeting of the Board of Supervisors of Orange County, California, acting as ex-officio Board of Supervisors of Orange County Flood Control District, was held August 8, 1961, at 9:30 A. M. The following named members being present: Wm. Hirstein, Chairman; C. M. Featherly, Willis H. Warner, William J. Phillips, C. M. Nelson and the Clerk.

IN RE: PERMIT CONSTRUCT AND MAINTAIN PEDESTRIAN CROSSINGS  
CARBON CREEK CHANNEL CITY OF ANAHEIM

On motion of Supervisor Warner, duly seconded and unanimously carried, the Chairman and the Clerk are authorized to sign the permit dated August 8, 1961, between the Orange County Flood Control District and the City of Anaheim granting permission to the City of Anaheim to construct and maintain two pedestrian crossings within the district's right of way of the Carbon Creek Channel easterly of Magnolia Avenue.

STATE OF CALIFORNIA. }  
County of Orange } ss.

I, L. B. WALLACE, County Clerk and ex-officio Clerk of the Board of Supervisors of Orange County Flood Control District, Orange County, California, hereby certify the foregoing to be a full, true and correct copy of the minute entry on record in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 8th day of August, 1961.

*L. B. Wallace*

L. B. WALLACE  
County Clerk and ex-officio Clerk of the Board of Supervisors of Orange County Flood Control District, Orange County, California.

RECEIVED

AUG 14 1961

ORANGE COUNTY  
FLOOD CONTROL DIST.

2M 1-61

COUNTY OF ORANGE

DEPARTMENTAL MEMO

ACCEPT NO VERBAL ORDERS

DATE: AUG 14 1961

TO: Joe Brunner

DEPT: \_\_\_\_\_

FROM: Planning

DEPT: \_\_\_\_\_

SUBJECT: Permit # 09461

attached are permit and plans for the city of Anaheim to construct 2 pedestrian crossings in Carbon Creek Ch. at Station 315+82 and 325+12, east of Magnolia Ave.

SIGNED: R. Burk

PUT IT IN WRITING . . . . . WRITTEN MESSAGES SAVE TIME AND AVOID ERRORS

FORM D 10

COUNTY OF ORANGE

DEPARTMENTAL MEMO

ACCEPT NO VERBAL ORDERS

DATE: 8-14-61

TO: Richard Marcus

DEPT: \_\_\_\_\_

FROM: Planning

DEPT: \_\_\_\_\_

SUBJECT: Permit # 09461 to City of Anaheim

attached are plans for the construction of 2 pedestrian crossings in Carbon Creek Ch. at Station 315+82+ and 325+12+

SIGNED: R. Burk

PUT IT IN WRITING . . . . . WRITTEN MESSAGES SAVE TIME AND AVOID ERRORS

FORM D 10



*Handwritten signature*

ORANGE COUNTY FLOOD CONTROL DISTRICT

AUG 8 1961

No. BL 522  
Permit No. 09461

The Honorable Board of Supervisors  
Orange County Flood Control District  
Court House  
Santa Ana, California

Gentlemen:

Enclosed herewith are three copies of a proposed permit to the City of Anaheim granting permission to construct and maintain two pedestrian crossings within district's right of way of the Carbon Creek Channel easterly of Magnolia Avenue.

It is respectfully recommended that this permit be granted for the following reasons:

C  
O  
P  
Y

- (1) In accordance with the terms of an agreement, the City of Anaheim has constructed a golf course and a portion of Carbon Creek Channel which passes through the golf course. The proposed access bridges are needed for the operation of the golf course and there is no reasonable alternative to the applicant at this time.
- (2) The applicant has agreed to conduct his operations in a manner that will not interfere with the operations of the district and has agreed to hold the district harmless in exercising the rights granted in this permit.
- (3) The City of Anaheim has the right to accomplish this work under the terms of an agreement dated January 20, 1959 between the City and the district.

If the permit is approved, it is requested that the Clerk of the Board return the copy marked "Permittee" to this office.

Respectfully yours,

H. C. OSBORNE  
Flood Control Engineer

EDE/yh  
Encl.

CITY OF ANAHEIM

August 2, 1961

File: No. Bl. 522  
Permit No. 09461

Mr. H.G. Osborne, Flood Control Engineer  
Orange County Flood Control District  
P.O. Box 1078  
Santa Ana, California

Attention: Mr. D.J. Martinson, Senior Civil Engineer

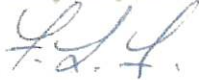
Gentlemen:

In compliance with your request of July 21, 1961 we are enclosing four sets of the plans for the pedestrian crossing within the Orange County Flood Control Right of Way of the Carbon Creek Channel.

Also enclosed are three (3) certified copies of the City of Anaheim's Resolution No. 7093 and three (3) copies of the properly executed Permit No. 09461.

Very truly yours,

JAMES P. MADDOK,  
City Engineer



Frank L. Fehse,  
Civil Engineering Associate  
Design Section

FLF:imm

ENC(10)

RECEIVED

AUG 2 1961

ORANGE COUNTY  
FLOOD CONTROL DIST.

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Attachment C

*Mansung*

ORANGE COUNTY FLOOD CONTROL DISTRICT

JUL 21 1961

No. B1.522  
Permit No. 09461

City of Anaheim  
City Hall  
204 East Center Street  
Anaheim, California

Attention: James P. Maddox

Dear Sir:

Attached herewith are three copies of a proposed permit granting permission to construct and maintain two pedestrian crossings within district's right of way of the Carbon Creek Channel easterly of Magnolia Avenue.

It will be necessary for the City Council to approve this permit. Please return all three copies of the permit along with a copy of the City Council's action for presentation to the Board of Supervisors.

Please send to our office four sets of the plans for the pedestrian crossing.

Very truly yours,

H. G. OSBORNE  
FLOOD CONTROL ENGINEER

By \_\_\_\_\_  
D. J. MARTINSON  
Senior Civil Engineer

RDB/jc  
Encls.

C  
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P  
Y

B1.522

CITY OF ANAHEIM

July 5, 1961

C

Mr. H.G. Osborne,  
Flood Control Engineer  
Orange County Flood Control District  
P.O. Box 1078  
Santa Ana, California

REF: Permit to Construct  
Pedestrian Trail  
Across Carbon Creek  
Channel B-1, Part II.

Gentlemen:

O

To accomodate the recreational use of lands contiguous to the Carbon Creek Channel between Brockhurst Avenue and Magnolia Avenue the City of Anaheim requests your permission to construct two (2) pedestrian trails across Carbon Creek at Stations 315+82 and 325 + 12.

The details of the proposed constuction are shown on the enclosed plans and cross sections.

P

This request is submitted in accordance with the terms of the agreement consumated between the City of Anaheim and the Orange County Flood Control District January 20, 1959 setting forth the recreational intentions of the City and the conveyance of necessary easements to the Orange County Flood Control District.

Y

The City of Anaheim agrees to perform all maintenance resulting from this construction.

The opening date for the Golf Course is August 1, 1961, consequently your expeditious treatment of this request will be appreciated.

Very truly yours,

JAMES P. MADDOK,  
Acting City Engineer

Frank L. Fehse,  
Civil Engineering Associate

FLF:imm

ENC(2)

RECEIVED

JUL 7 1961

ORANGE COUNTY  
FLOOD CONTROL DIST.

80481

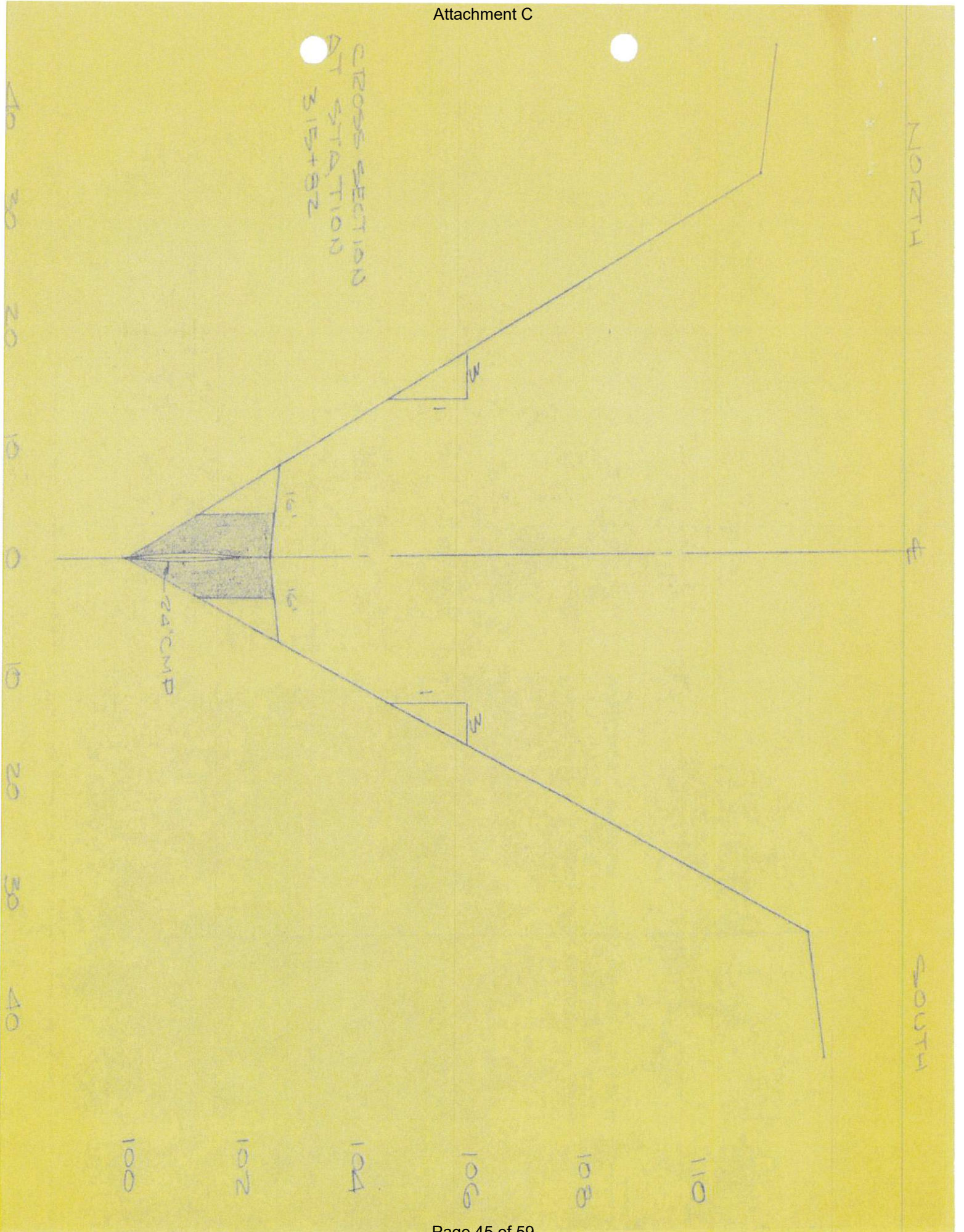
Attachment C

STATUS OF PERMIT

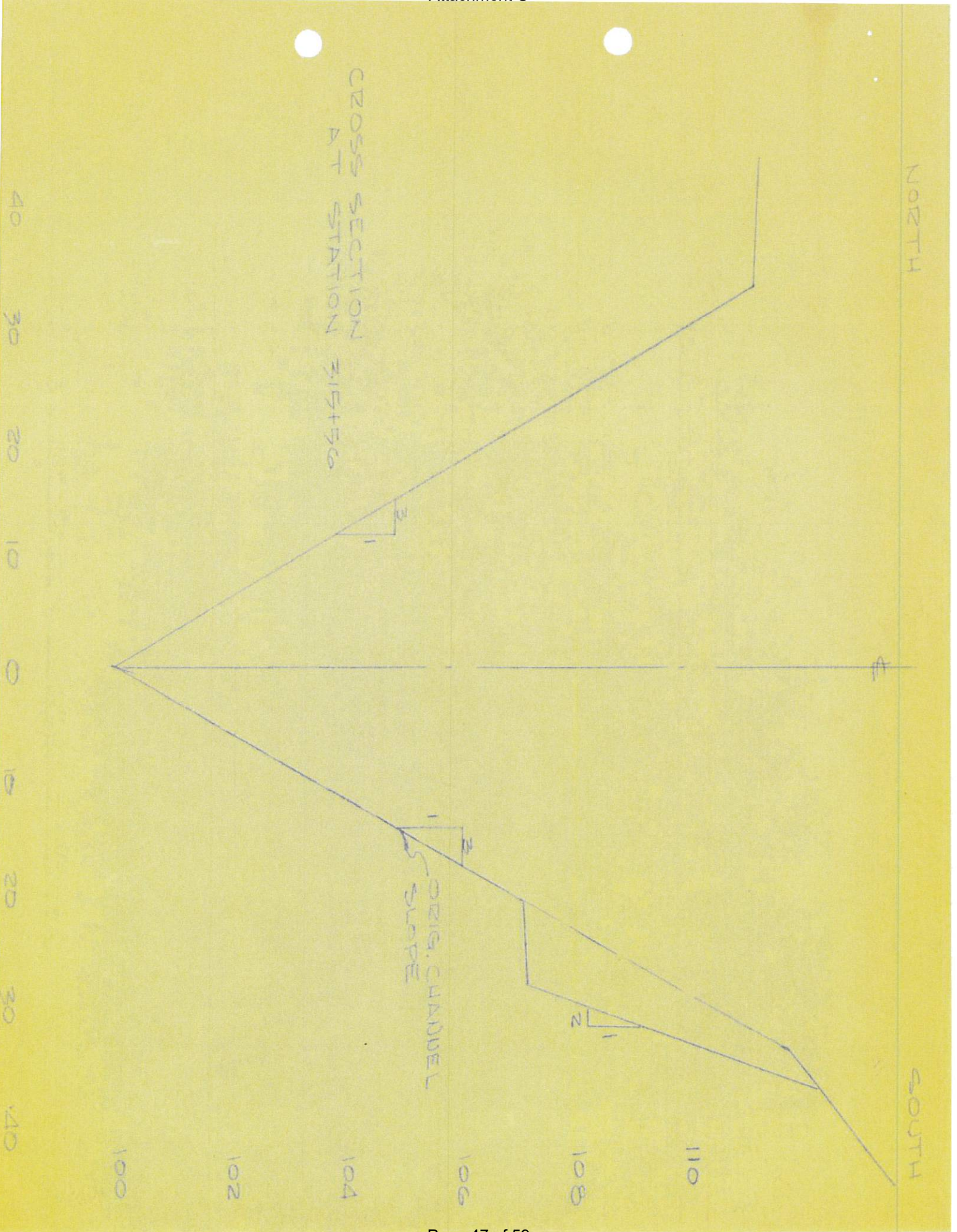
NAME Anaheim PERMIT EXPIRES \_\_\_\_\_  
 DESCRIPTION 2 East bridges over Carbon Cr. Ch BOND EXPIRES \_\_\_\_\_  
 LOCATION E/O Magnolia Sta-315+02 325+18 INSURANCE EXPIRES \_\_\_\_\_  
 DATE REQUEST RECEIVED 7-7-61

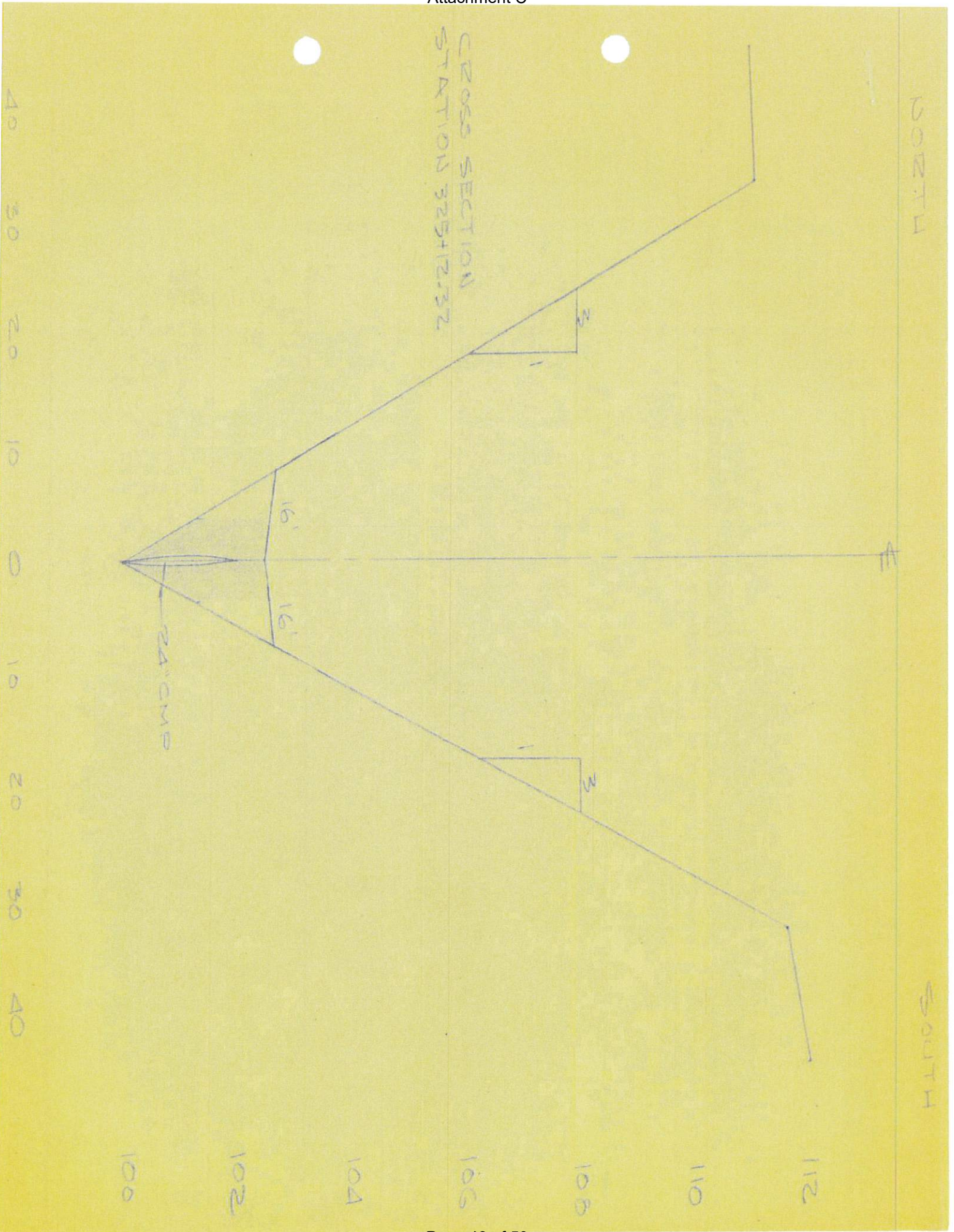
ACTION	DATE	BY	COMMENTS
1. Approvals or comments: a) Design b) Maintenance c) R/W d) Other	7-12-61		plans OK by RSM.
2. Tentative agreement or permit prepared: a) Rough Copy b) Typing c) Smooth Copy Checked	7-12-61	RB	
3. Agreement or permit (6 copies) approved by County Council.	JUL 18 1961		
4. All copies sent to Permittee with letter of transmittal (or Second Party for agreements) to be signed and returned with Bond and Insurance Certification	JUL 18 1961		
5. Copies returned from Permittee.	7-23-61	RB	
6. Bond approved by County Council			
7. All copies of tentative agreement or permit, and bond and a letter of transmittal sent to Board of Supervisors.	7-7-61	RB	
8. One copy Board Order and permit sent to Ass't Flood Control Engineer for Maintenance Supt.	AUG 14 1961		
9. Copies returned from Board (County Clerk's Office).	AUG 8 1961		
10. Final letter, one copy of permit or agreement, and 1 copy of Board Order sent to Permittee	AUG 14 1961		
11. One copy of agreement permit, 1 copy of Board Order, 1 copy Bond and Insurance filed in permit folder.	AUG 14 1961		
12. Field Inspection			

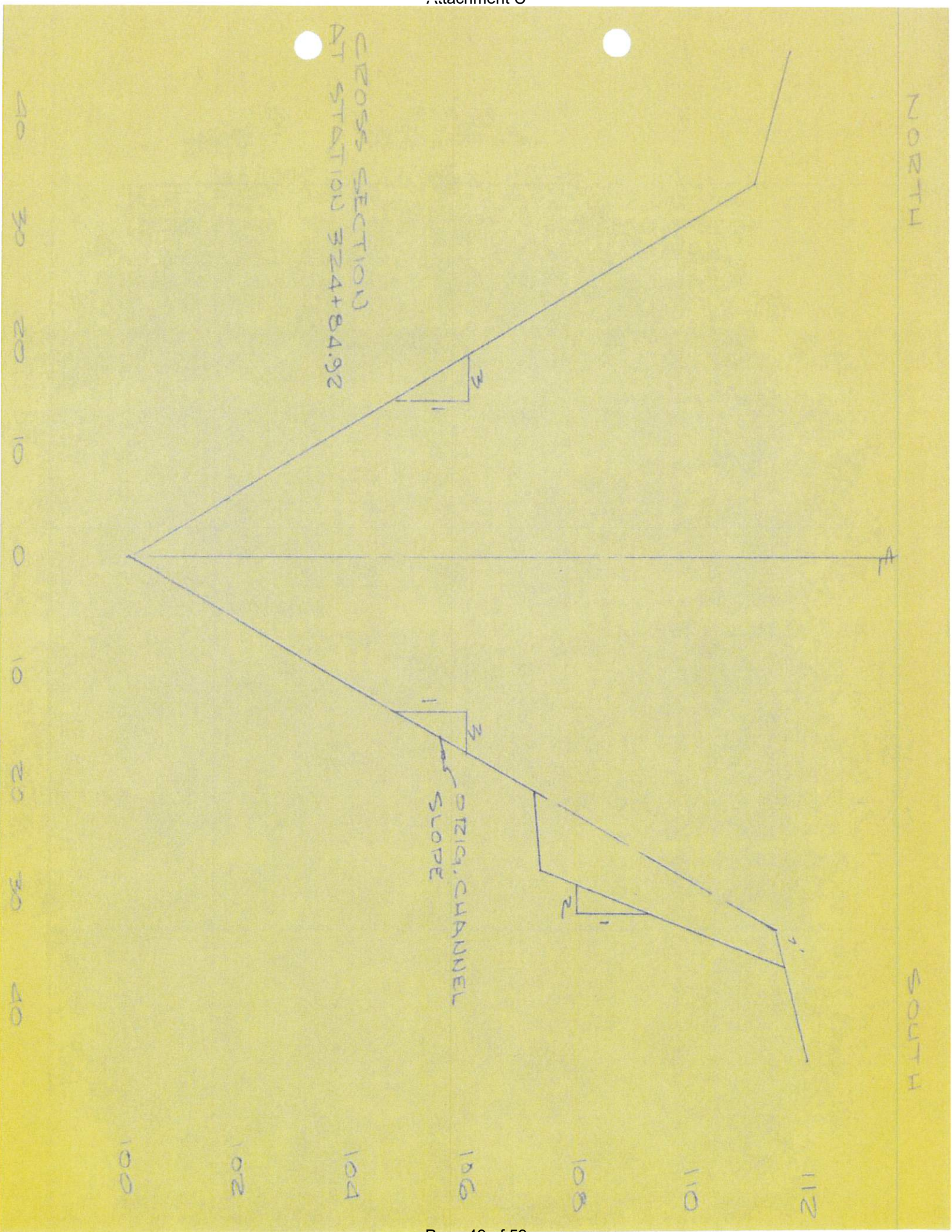
Attachment C

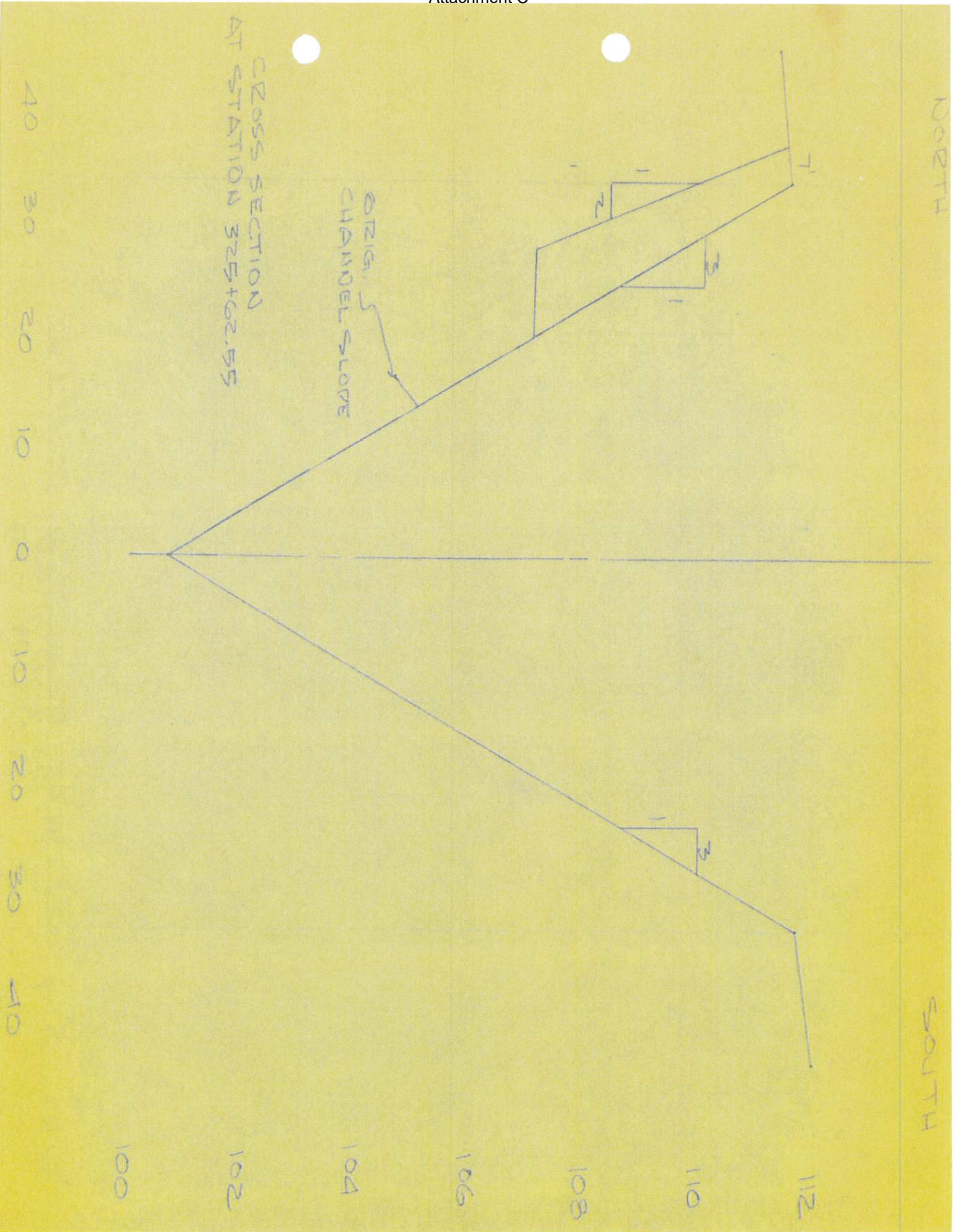












*These things washed out storm '62*

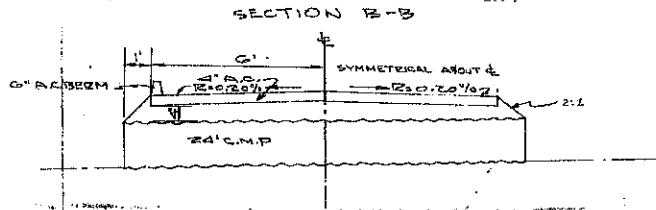
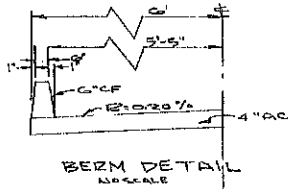
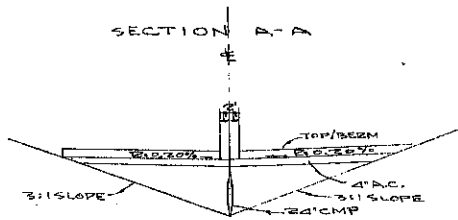
**QUANTITY ESTIMATE**

1. EXCAVATION INCL. 166 CY. OF COMPACTED FILL, INCL. HAULWAY & DISPOSAL
2. CONST. 4" A.C. OVER WEED KILLER
3. CONST. 6" A.C. BERM
4. CONST. 24" C.M.P., 10 GA. COMPLETE IN PLACE

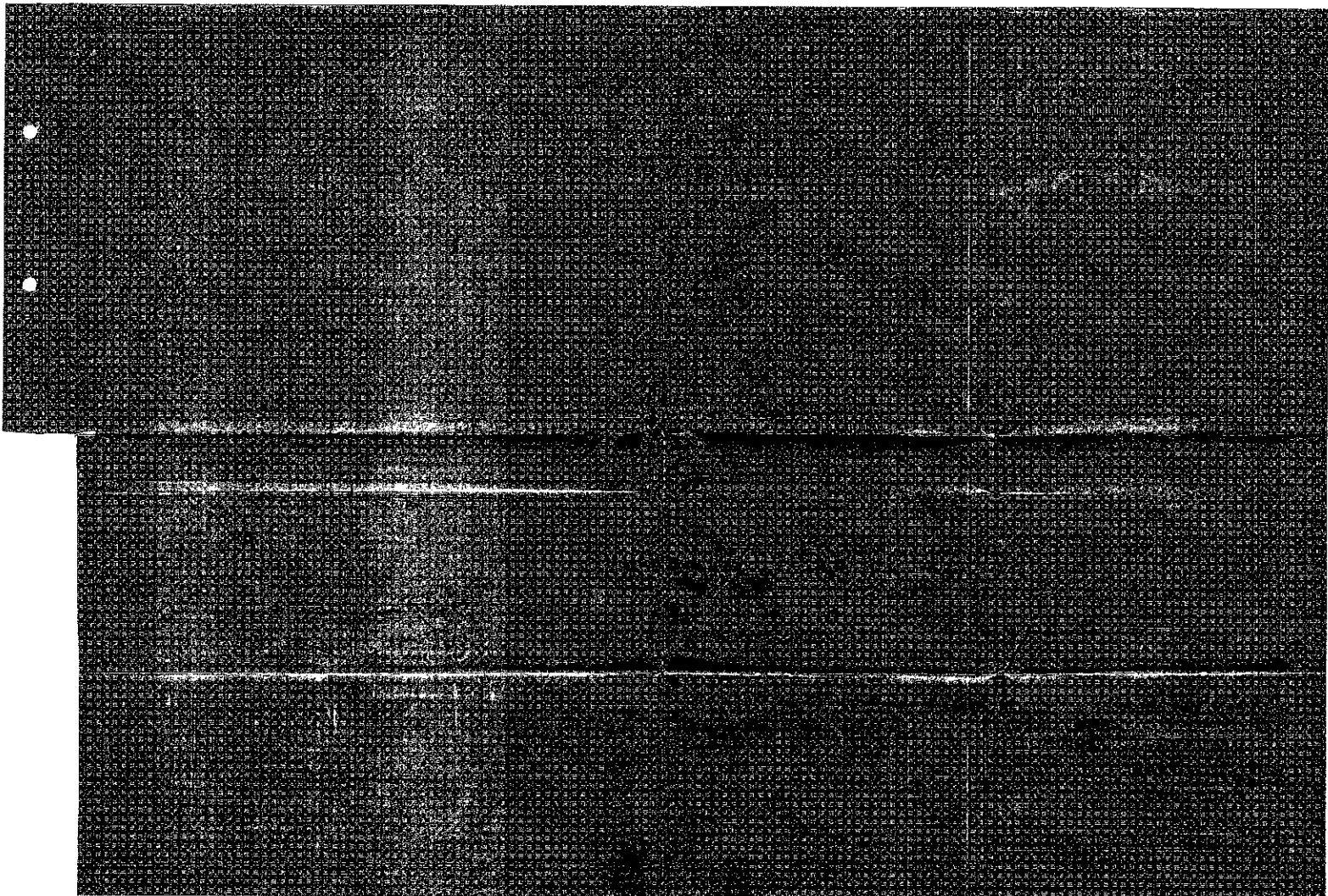
475 C.Y.  
87 TONS  
393 L.F.  
28 L.F.

ORANGE COUNTY FLOOD CONTROL DISTRICT  
**APPROVED FOR CONSTRUCTION**  
**IN DISTRICT RIGHT OF WAY**  
 PERMIT NO. 02261 ISSUED AUG. 9 1961

**DETAIL OF CENTERLINE OF PEDESTRIAN CROSSING & CHANNEL**  
 NO. SCALE

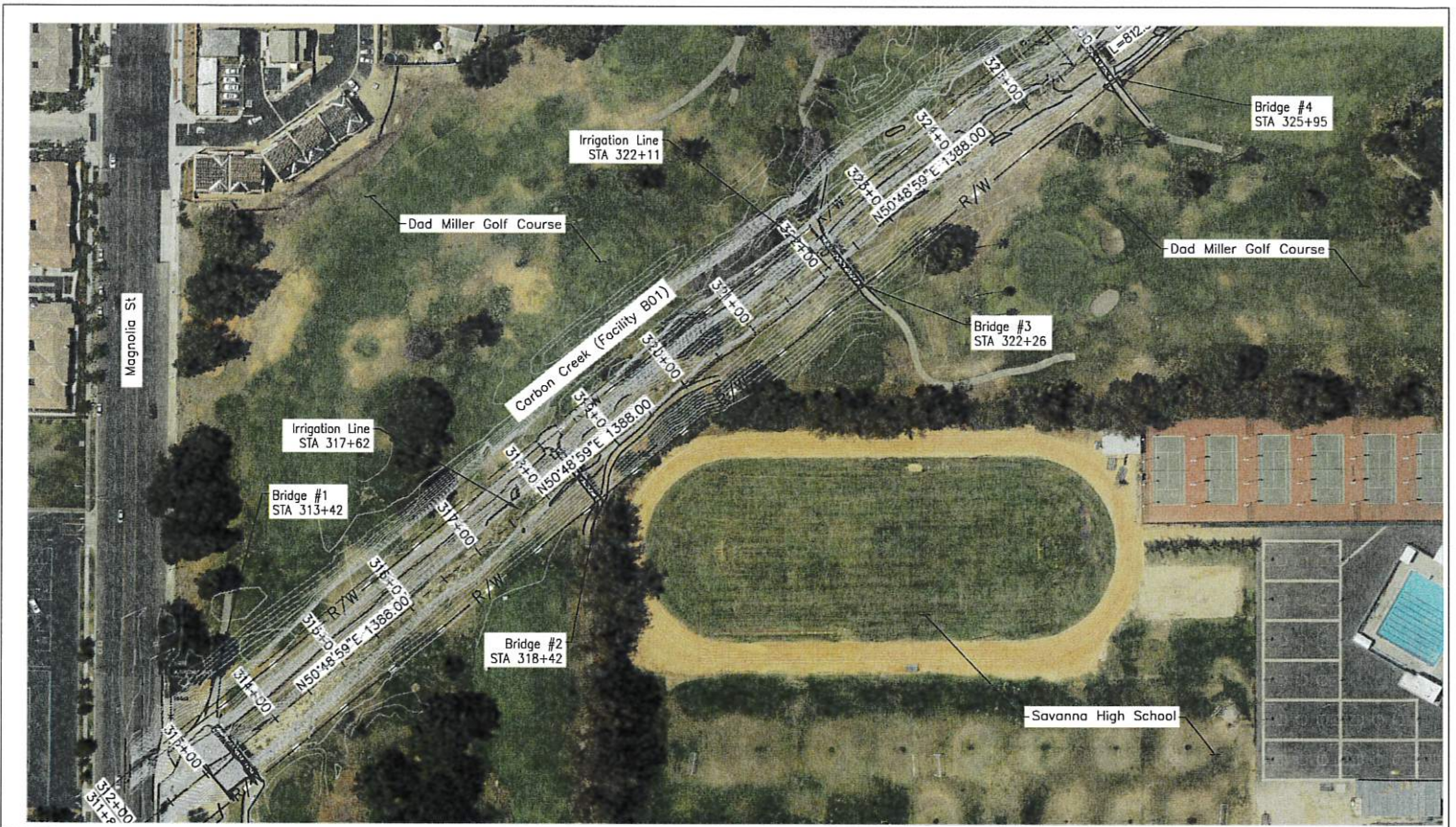



CITY OF ANAHEIM	
DEPARTMENT OF PUBLIC WORKS	
ENGINEERING DEPARTMENT	
DETAIL SHEET FOR PEDESTRIAN CROSSINGS	
DESIGN: WS	DATE: 6-30-61
CHECK:	APPROVED BY: <i>[Signature]</i>









	<b>OC PUBLIC WORKS</b> OC INFRASTRUCTURE PROGRAMS / MAINTENANCE ENGINEERING SUPPORT	<b>EXHIBIT MAP</b> <b>CARBON CREEK CHANNEL</b> <b>(FACILITY B01)</b>	Prepared by: RC Date: 06/24/2020 Revision:	<b>WATERLINES AND GOLF CART</b> <b>BRIDGES LOCATION EXHIBIT</b>
			Sheet 1 of 1	CARBON CREEK CHANNEL AT DAD MILLER GOLF COURSE

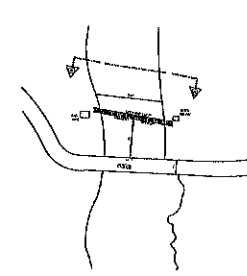
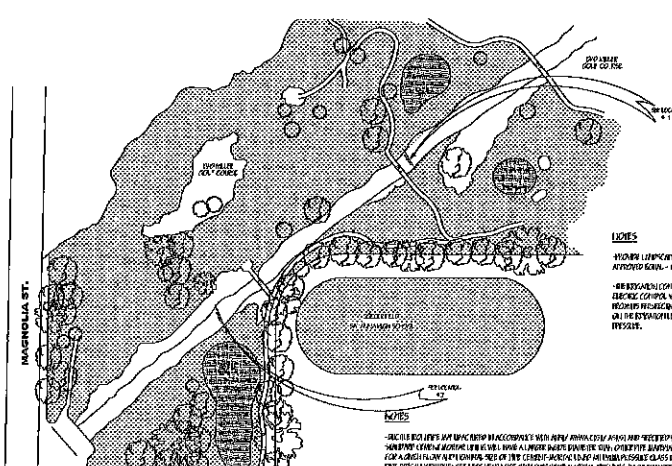
Attachment C

**EXHIBIT D**

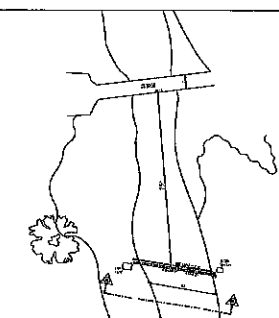
Local Implementation Plan (to be attached)

# PROPOSED REPAIR MAIN LINE CHANNEL CARBON CREEK at DAD MILLER GOLF COURSE

430 N. GILBERT ST, ANAHEIM, CA. 92801



**LOT PLAN**



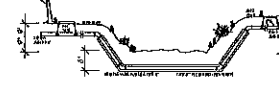
**LOT PLAN**

**NOTES**

1. THE REPAIR WORK SHALL BE IN ACCORDANCE WITH THE CITY OF ANAHEIM'S STANDARD SPECIFICATIONS FOR OPEN CHANNELS AND POND LINES. THE REPAIR WORK SHALL BE IN ACCORDANCE WITH THE CITY OF ANAHEIM'S STANDARD SPECIFICATIONS FOR OPEN CHANNELS AND POND LINES. THE REPAIR WORK SHALL BE IN ACCORDANCE WITH THE CITY OF ANAHEIM'S STANDARD SPECIFICATIONS FOR OPEN CHANNELS AND POND LINES.



**SECTION A-A'**



**SECTION B-B'**

1. THE REPAIR WORK SHALL BE IN ACCORDANCE WITH THE CITY OF ANAHEIM'S STANDARD SPECIFICATIONS FOR OPEN CHANNELS AND POND LINES. THE REPAIR WORK SHALL BE IN ACCORDANCE WITH THE CITY OF ANAHEIM'S STANDARD SPECIFICATIONS FOR OPEN CHANNELS AND POND LINES. THE REPAIR WORK SHALL BE IN ACCORDANCE WITH THE CITY OF ANAHEIM'S STANDARD SPECIFICATIONS FOR OPEN CHANNELS AND POND LINES.

**REGULATION PIPE SIZES**

PIPE SIZE	12"	14"	16"	18"	20"	24"	30"	36"
MINIMUM COVER	2'	4"	4"	4"	4"	4"	4"	4"

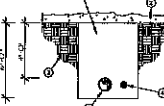
**CONCRETE PIPE SIZES**

CONCRETE PIPE	12"	14"	16"	18"	20"	24"	30"	36"
MINIMUM COVER	2'	4"	4"	4"	4"	4"	4"	4"

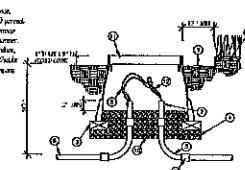
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**LEGEND**

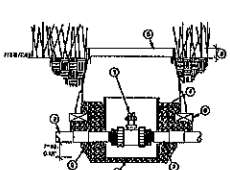
REPAIR MAIN LINE CHANNEL	REPAIR MAIN LINE CHANNEL	REPAIR MAIN LINE CHANNEL	REPAIR MAIN LINE CHANNEL
CONCRETE PIPE	CONCRETE PIPE	CONCRETE PIPE	CONCRETE PIPE
REGULATION PIPE	REGULATION PIPE	REGULATION PIPE	REGULATION PIPE



**CONCRETE PIPE**



**JUNCTION CABLE PULL BOX**



**BALL VALVE**

**PROJECT INFORMATION**

PROJECT NAME: MAIN LINE CHANNEL CARBON CREEK at DAD MILLER GOLF COURSE

EXISTING & PLOT PLAN + NOTES & DETAILS

DATE: May 2020

SCALE: P5

PROJECT NO: C-0020-04-05

SHEET NO: A-1

**EXHIBIT E****Best Management Practices ("BMPs" Fact Sheets)**

LICENSEE shall be responsible for implementing and complying with all BMP Fact Sheet requirements that apply to this LICENSEE'S operations. LICENSEE is to be aware that the BMP clause within this LICENSE, along with all related BMP Exhibits, may be revised, and may incorporate more than what is initially being presented in this LICENSE.

Suggested BMPs Fact Sheets may include, but may not be limited to, the following list shown below and can be found at: <http://ocwatersheds.com/documents/bmp> (website may change from time to time):

- SC42 Building Repair and Construction
- SC41 Building and Grounds Maintenance
- SC30 Outdoor Loading/ Unloading
- SC32 Outdoor Equipment Operations
- SC33 Outdoor Storage of Raw Materials
- SC43 Parking / Storage Area Maintenance
- SC11 Spill Prevention Control and Clean up
- SC34 Waste Handling and Disposal
- SC10 Non Stormwater Discharges

**EXHIBIT F**

Facility Number B01

Location Name: Dad Miller Golf Course, Gilbert Retarding Basin

**ESTOPPEL CERTIFICATE**

TO:

As of the date of this Estoppel Certificate the undersigned, as a "City" under that lease dated \_\_\_\_\_, between Orange County Flood Control District ("Lessor") and the \_\_\_\_\_ ("City"), does hereby acknowledge the following:

1. The aforesaid lease, subject to article 2 below, constitutes the entire agreement between Lessor and City and is in full force and effect.
2. (Check One)
  - The aforesaid lease has not been modified, altered, or amended.
  - The aforesaid lease has been modified pursuant to that document(s) attached hereto.
3. The term of the lease is Twenty Five (25) years. The lease commenced on \_\_\_\_\_ and will expire on \_\_\_\_\_.
4. The term of the lease is subject to City's option to terminate/extend as follows:  
Five (5) Five-year (5) year mutual options.
5. The lease rental rate is \$10,000 per month, plus additional rent as described in Clause 3 (RENT) no rent has been paid in advance except as set forth in the lease, and City has received no notice of a prior assignment, hypothecation, or pledge of the lease from Lessor.
6. City has accepted and is now in possession of the leased premises.
7. The addresses for notices to be sent to City are set forth in Clause 65 (NOTICES) of the lease.
8. City has no charge, lien, or claim of offset under this lease against rents or other charges due or to become due and, to the actual knowledge of City is not now in default under the lease.

CITY  
City of Anaheim, a municipal corporation and  
charter city

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

Its: \_\_\_\_\_

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