

**AGENDA
IRVINE RANCH WATER DISTRICT
BOARD OF DIRECTORS
REGULAR MEETING**

February 13, 2023

CALL TO ORDER 5:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL Directors Reinhart, Withers, Swan, LaMar, and President McLaughlin

This meeting will be held in-person at the District's headquarters located at 15600 Sand Canyon Avenue, Irvine, California. The meeting will also be broadcasted via Webex for those wanting to observe the meeting virtually.

To observe this meeting virtually, please join online using the link and information below:

Via Web: <https://irwd.webex.com/irwd/j.php?MTID=m25299e224b455d083f3dab51b0f88f41>

Meeting Number (Access Code): 2483 463 3306

Meeting Password: r8AvkPRPQ63 (78285777 from video systems)

PLEASE NOTE: Webex observers of the meeting will be placed into the Webex lobby when the Board enters closed session. Participants who remain in the "lobby" will automatically be returned to the open session of the Board once the closed session has concluded. Observers joining the meeting while the Board is in closed session will receive a notice that the meeting has been locked. They will be able to observe the meeting once the closed session has concluded.

PUBLIC COMMENT NOTICE

Public comments are limited to three minutes per speaker on each subject. If you wish to address the Board of Directors on any item, you may attend the meeting in person and submit a "speaker slip" to the Secretary. Forms are provided outside of IRWD's Board Room. If attending via Webex, please submit your request to speak, or your comment, via the "chat" feature and your remarks will be read into the record at the meeting. You may also submit a public comment in advance of the meeting by emailing comments@irwd.com before 12:00 p.m. on Monday, February 13, 2023.

COMMUNICATIONS TO THE BOARD

1. A. Written:

B. Oral:

2. ITEMS RECEIVED TOO LATE TO BE AGENDIZED

Recommendation: Determine the need to discuss and/or take immediate action on item(s).

PUBLIC HEARING

3. PUBLIC HEARING ON AND CONSIDERATION OF RESOLUTION OF NECESSITY TO INITIATE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE MITIGATION LAND FOR THE SYPHON RESERVOIR IMPROVEMENT PROJECT

CEQA: Staff has determined that the acquisition of the subject property is exempt from the California Environmental Quality Act (CEQA) on the grounds of a Class 25 Categorical Exemption because it is a transfer of ownership of interest in land to preserve existing natural conditions or historical resources.

Recommendations:

(1) Conduct a public hearing on, and consider for adoption, a Resolution of Necessity pursuant to California Code of Civil Procedure Section 1245.230, to acquire approximately 99.835 acres of vacant land in Unincorporated Orange County, California located on the north side of Irvine Lake, being a portion of Blocks 70 and 78 of Irvine's subdivision, M.R.M. 1/88 (APNs: 105-361-07 and 105-361-09) (the "Subject Property").

(2) Recommendation: That the Board adopt the following Resolution of Necessity by title:

RESOLUTION NO. 2023-2

RESOLUTION OF THE BOARD OF DIRECTORS OF IRVINE RANCH WATER DISTRICT DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF MITIGATION LAND FOR THE SYPHON RESERVOIR IMPROVEMENT PROJECT AND DIRECTING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS
(APNs: 105-361-07 and 105-361-09)

Reso. No. 2023-2

CONSENT CALENDAR, ITEMS 4-7

4. BOARD MINUTES

Recommendation: That the minutes from the January 23, 2023 Regular Board Meeting and January 31, 2023 Adjourned Regular Board meeting be approved as presented.

CONSENT CALENDAR, ITEMS 4 -7, continued

5. AUDIT FIRM EXTENSION FOR FISCAL YEAR ENDING JUNE 30, 2023

Recommendation: That the Board authorize the General Manager to execute a new one-year audit services contract with Davis Farr LLP for the fiscal year ending June 30, 2023 at a cost of \$67,850 plus possible single audit fees not to exceed \$3,500.

6. 2023 LEGISLATIVE AND REGULATORY UPDATE

Recommendation: The Board adopt a "SUPPORT, AS PROPOSED TO BE AMENDED" position on SB 23 (Caballero).

7. SEAWATCH RECYCLED WATER PRESSURE REDUCING STATION FINAL ACCEPTANCE

Recommendation: That the Board accept construction of the Seawatch Recycled Water Zone G to G-Reduced Pressure Reducing Station Project, authorize the General Manager to file a Notice of Completion, and authorize the payment of the retention 35 days after the date of recording the Notice of Completion for Project 11597.

ACTION CALENDAR

8. IRVINE LAKE – COOPERATIVE AGREEMENT FOR FUTURE JOINT RECREATION USE

Recommendation: That the Board authorize the General Manager to execute the Cooperative Agreement for Irvine Lake Recreational Concession Solicitation and Administration and take any actions necessary to select a concessionaire to conduct recreational activities at Irvine Lake.

9. ADVANCE METERING INFRASTRUCTURE FEASIBILITY STUDY AND BUSINESS PLAN

Recommendation: That the Board authorize the addition of AMI Implementation for the Domestic and Recycled Systems, Projects 12514 and 12515, in the combined amount of \$180,000 to the FY 2022-23 Capital Budget.

OTHER BUSINESS

Pursuant to Government Code Section 54954.2, members of the Board of Directors or staff may ask questions for clarification, make brief announcements, and make brief reports on his/her own activities. The Board or a Board member may provide a reference to staff or other resources for factual information, request staff to report back at a subsequent meeting concerning any matter, or direct staff to place a matter of business on a future agenda. Such matters may be brought up under the General Manager's Report or Directors' Comments.

10. General Manager's Report
11. Receive oral update(s) from District liaison(s) regarding communities within IRWD's service area and provide information on relevant community events.
12. Directors' Comments
13. Closed Sessions

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – Pursuant to Government Code Section 54956.8:

Property: Assessor's Parcel Numbers 105-361-07 & 09, County of Orange

Agency negotiator: Rob Jacobson, Treasurer/Director of Risk Management, and Claire Collins, General Counsel

Negotiating parties: Tran Land Company, a General Partnership;

David S. Belna, Trustee of the David S. Belna Trust dated May 28, 1998;

David Belna, Successor Trustee of the Belna Family Trust dated May 16, 1986;

Paul F. Belna, Trustee of the Paul F. Belna Trust dated September 12, 1996;

Steven Belna, Trustee of the Steven Belna Trust dated April 27, 2001

Thomas H. Hale and Mary C. Hale as Trustees of the Hale Family Revocable Trust – 2011;

Jill Richmond, Trustee of the Richmond Family Trust dated April 16, 1980; and

Robert L. Wilkes, Trustee of the Wilkes Family Trust dated July 11, 1989

Under negotiation: Price and Terms of Payment

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Pursuant to Government Code Section 54956.9(d)(4): Initiation of litigation, one (1) potential case


OTHER BUSINESS (CONTINUED)

14. Open Session

15. Adjournment

Availability of agenda materials: Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the above-named Board in connection with a matter subject to discussion or consideration at an open meeting of the Board are available for public inspection in the District's office, 15600 Sand Canyon Avenue, Irvine, California ("District Office"). If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available from the District Secretary of the District Office at the same time as they are distributed to Board Members, except that if such writings are distributed one hour prior to, or during, the meeting, they will be available electronically via the Webex meeting noted. Upon request, the District will provide for written agenda materials in appropriate alternative formats, and reasonable disability-related modification or accommodation to enable individuals with disabilities to participate in and provide comments at public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, or alternative format requested at least two days before the meeting. Requests should be emailed to comments@irwd.com. Requests made by mail must be received at least two days before the meeting. Requests will be granted whenever possible and resolved in favor of accessibility.

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February 13, 2023
Prepared by: C. Collins
Submitted by: F. Sanchez / R. Jacobson
Approved by: Paul A. Cook 

PUBLIC HEARING

PUBLIC HEARING ON AND CONSIDERATION OF
RESOLUTION OF NECESSITY TO INITIATE
EMINENT DOMAIN PROCEEDINGS TO ACQUIRE MITIGATION LAND
FOR SYPHON RESERVOIR IMPROVEMENT PROJECT

SUMMARY:

As necessary for the public interest, the Irvine Ranch Water District (District) Board of Directors (Board) is conducting a public hearing and will potentially adopt a Resolution of Necessity (attached as Exhibit “A”) to acquire property to meet mitigation requirements for the Syphon Reservoir Improvement Project (Project). Due to the Project’s inundation or other disturbance of current mitigation lands in connection with expanding the Syphon Reservoir, environmental resource agencies have required the District to preserve or mitigate upland habitat. The subject property, consisting of approximately 99.835 acres, is a vacant/open space parcel with sufficient upland habitat to satisfy the balance of the District’s upland habitat mitigation requirements, and is located offsite in Orange County, California, west of Black Star Canyon Road and northwest of Santiago Canyon Road, Assessor’s Parcel Numbers 105-361-07 and 105-361-09 (Subject Property). A legal description and depiction of the property is attached to the resolution.

The Subject Property is owned jointly by the following 8 owners, collectively referred to as the “Ownership Group”:

- Tran Land Company, a General Partnership (undivided 50% interest);
- David S. Belna, Trustee of the David S. Belna Trust dated May 16, 1986 (undivided 17.5% interest);
- David Belna, Successor Trustee of the Belna Family Trust dated May 16, 1986 (undivided 16.5% interest);
- Paul F. Belna, Trustee of the Paul F. Belna Trust dated September 12, 1996 (undivided 5.0% interest);
- Steven Belna, Trustee of the Steven Belna Trust dated April 27, 2001 (undivided 5.0% interest)
- Thomas H. Hale and Mary C. Hale, Trustees of the Hale Family Revocable Trust – 2011 (undivided 5.0% interest);
- Jill Richmond, Trustee of the Richmond Family Trust dated April 16, 1980 (undivided 0.75% interest); and
- Ron Martinez or Robert L. Wilkes, Trustee of the Wilkes Family Trust dated July 11, 1989 (undivided 0.25% interest).

The Resolution of Necessity must be adopted by a vote of two-thirds of the entire membership of the Board (that is, four affirmative votes). By adopting the Resolution of Necessity, the Board will authorize the District's legal counsel to commence eminent domain proceedings to acquire the Property. The adoption of the resolution presumptively establishes the extent and necessity of the acquisition.

BACKGROUND:

The purpose of the Project is to increase the capacity of the existing Syphon Reservoir, which is part of the District's recycled water system. The proposed Project would increase the storage capacity of the reservoir from approximately 578 acre-feet to 5,000 acre-feet (from 188.3 million gallons to 1.6 billion gallons), allowing the District to store more recycled water to meet its seasonal and future needs. The Project will include replacement of the existing dam with a new 136-foot-high dam with a 20-foot-wide crest and new spillway.

The District has developed the Project due to a compelling need to increase the storage capacity of recycled water at the existing Syphon Reservoir. The District currently produces more recycled water than it can store, which results in excess recycled water being released to the ocean. By increasing storage and making more recycled water available, the District would reduce its dependence on costly imported water. The Project would allow the District to better prepare for the future by storing more drought-proof water, enable the District to use nearly all the recycled water it produces, and provide water to fight wildfires throughout the region. It is projected that the Project will generate approximately \$100 million in savings over the next 50 years. In addition, as part of the reservoir expansion, the existing engineered dam will be replaced with a new engineered dam that will continue to meet or exceed the latest federal and state safety standards.

Benefits of the Project include: (1) increasing recycled water storage capacity; (2) improving local water supply reliability and decreasing costly water imports; (3) reducing diversions to the sewer system; (4) ensuring continued safety; (5) maximizing recycle water benefits for District customers; and (6) reducing recycled water discharges to the ocean.

The Project is necessary to allow the District to be a good environmental steward and to better provide for the future by having more drought-proof water in storage. The Project will also modernize and update the Syphon Reservoir's engineered dam, which will then be designed and constructed to meet current dam safety standards. As a result, this Project will create a permanent solution that will better serve the public interest, health, and safety and the community in increasing the District's recycled water storage system.

Project Impacts and the Subject Property:

As part of the Final Environmental Impact Report (FEIR) for the Project, which was certified by the Board on July 26, 2021 (State Clearinghouse #2019080009 (July 2021)), the District evaluated the environmental impacts of the Project and how to mitigate those impacts. As part of the District's mitigation efforts for the Project, the District worked closely with the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service (the Resource Agencies) to develop a multi-faceted mitigation strategy, which includes on-site and offsite

habitat restoration and preservation of Coastal Sage Scrub (CSS or upland) habitat, wetlands, and riparian habitat. Offsite mitigation is required because Syphon Reservoir is surrounded by open space that is currently encumbered with Covenants, Conditions, and Restrictions (CC&Rs) and is within a nature reserve managed under a conservation plan. The CC&Rs and conservation plan limit uses of the land and require higher mitigation ratios. The Project is estimated to impact approximately 76.15 acres of upland CSS habitat at Syphon Reservoir. The resource agencies apply a multiplier to the impacted lands at Syphon, and as a result would require 172.73 acres of mitigation lands. The District identified approximately 109 acres of on-site upland restoration, enhancement and creation lands at Syphon Reservoir that would be used to partially satisfy the total requirement, resulting in a remaining requirement for IRWD to obtain approximately offsite 64 acres ($172.73 - 109 = 63.73$) for mitigation. Based on vegetation mapping of the Subject Property, the District needs at least 78 acres of the Subject Property to meet the off-site mitigation requirements for the project, because some areas of the Subject Property will receive only partial credit from the resource agencies based on those acres' habitat values. The District seeks to acquire the entire Subject Property to avoid leaving uneconomic remnants.

The District diligently investigated available and appropriate potential mitigation sites and has determined that the acquisition and conservation of the Subject Property is necessary to achieve the District's mitigation requirements. The Subject Property contains the type of habitat values necessary for the District's mitigation plan. In 2019, the District developed a list of 34 potential properties that could be suitable for off-site mitigation. The District and biologists from consultant Environmental Science Associates reviewed each of the properties to assess how well they fit the criteria for CSS habitat that would be suitable to support the California gnatcatcher. A shortlist of seven properties, including the Subject Property, was identified for more detailed review, including on-site assessments. The District also met with the resource agencies to discuss the findings of the assessments. Some of the sites were deemed less suitable by the resource agencies due to their location outside of Orange County, or lack of proximity to the Orange County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP). Some of the sites were rejected due to their higher elevations and therefore lack of suitability to support California gnatcatcher. Some of the sites were rejected due to lack of sufficient CSS habitat to fully satisfy the off-site mitigation requirements. One of the sites was deemed infeasible due to the costs associated with implementing necessary habitat improvements, such that the overall Project would not be cost-effective to implement. The Subject Property was determined to meet all mitigation criteria and would be acceptable to the resource agencies to satisfy the off-site CSS/upland habitat mitigation requirements for the Project.

In addition to containing important habitat values, the Subject Property is an excellent candidate for long term conservation. It is surrounded on all sides by land that is already protected by a regional conservation plan (the NCCP), and is known to support California gnatcatcher. The Subject Property is currently zoned for agricultural use and generally planned for open space uses. The Subject Property's land use designation as open space affects potential development of the parcel. According to the Orange County Planning and Development Department, the general plan would have to be amended to change the Subject Property's land use designation. Additionally, the Subject Property does not have public road access; development of the property would require building a road through an area encumbered with a conservation plan,

and there are no utilities available on the site. For these reasons, the District's appraisal found the "Highest and Best Use" of the Subject Property to be vacant land.

Upon acquisition by the District, the Subject Property could be placed into the existing NCCP Reserve system, and permanently protected from development. State and local resource agencies support the permanent protection of this land.

Power of Eminent Domain and Resolution of Necessity:

To fulfill its mitigation requirements as necessary to complete the Project, the District needs to acquire the Subject Property from the Ownership Group. This acquisition is being pursued in accordance with state and federal law, and diligent efforts have and continue to be made to acquire the Subject Property through voluntary negotiations. However, voluntary negotiated settlements may not be achievable, and the Subject Property may need to be acquired through a timely condemnation process to ensure that the Project can stay on schedule.

The California Constitution, California Eminent Domain Law at Code of Civil Procedure § 1230.010 *et seq.*, including but not limited to §§ 1240.010, 1240.020, 1240.030, 1240.040, and 1240.220, and California Water Code § 35600 authorize the District to acquire property by eminent domain. Before filing a condemnation action for any property interests, the District must satisfy certain procedural prerequisites, including obtaining an appraisal, presenting a formal offer, providing notice to the property owners of their right to attend a public hearing regarding a Resolution of Necessity, and adopting a Resolution of Necessity.

The District, in adopting the Resolution of Necessity, must make certain determinations. The notice to the property owners must inform the owners of their right to appear and be heard on the following issues, as follows:

- 1) The public interest and necessity require that the Project be undertaken;
- 2) The Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury;
- 3) The acquisition of the property described in the resolution is necessary for the Project; and
- 4) Either the offer required by section 7267.2 of the Government Code has been made to the owners, or the offer has not been made because the owner cannot be located with reasonable diligence.

(Code Civ. Proc. § 1245.230.)

The facts described above describe the basis for staff's recommendation to the Board to make the required determinations and adopt the resolution of necessity, which facts are further described below.

1) The Public Interest and Necessity Require That the Project Be Undertaken.

The public interest and necessity require that the Project be undertaken.

As outlined above, the Subject Property is necessary to complete the Project and allow the District to increase its recycled water storage capacity. The Project will promote the public interest, safety, and welfare by increasing the capacity of recycled water storage in the District, store drought-proof water, and provide water to fight wildfires in the region. The increased capacity will maximize recycled water benefits for District customers and the Southern California region by improving local water supply reliability, decreasing costly water imports and reduce diversions to the sewer system, and reducing recycled water discharges to the ocean. The Project will also ensure continued safety by upgrading and modernizing the existing engineered dam.

2) The Project Is Planned and Located in the Manner That Will Be Most Compatible with the Greatest Public Good and Least Private Injury.

Because of the nature of the Syphon Reservoir site and the fact that open space around the reservoir is encumbered with CC&Rs and a conservation plan, the District has significant mitigation requirements that require offsite property to be acquired and protected. The Project (to expand the Syphon Reservoir) is compatible with the greatest public good because water is an increasingly scarce resource and capturing and storing more recycled water will promote the public good of resource preservation and drought resilience. The location of the Syphon Reservoir expansion is most compatible with the greatest public good and least private injury because it is the expansion of an existing reservoir on land already owned by the District, which leads to the least private injury to private landowners whose lands will not be needed to build a new reservoir.

The location of the Subject Parcel is compatible with the greatest public good and least private injury because the preservation of this parcel will maintain its current open-space nature and make it compatible with the surrounding NCCP preserve. Acquisition of the Subject Parcel also creates the least private injury by acquiring a single parcel that currently has no active or feasible residential or commercial uses. No persons or businesses will be displaced by the acquisition or use of the Subject Parcel for mitigation.

District staff engaged in a comprehensive review of open space parcels in Orange County that contain the type of habitat values required by the resource agencies for IRWD's mitigation package, and planned the acquisition strategy in a manner that would minimize the Project's impact on private property rights. The Subject Property's future development potential is low due to its remote location, terrain, zoning designation, and access issues, as evidenced by the District's appraiser's determination that the parcel's highest and best use is as vacant open space. The District's acquisition of the Subject Property would increase the region's protected open space and restore important habitat values, making it the most compatible with the greatest public good and the least private injury.

3) The Acquisition of the Subject Property Is Necessary for the Project.

Conservation of the Subject Property is necessary to fulfill the District's mitigation requirements because it contains the habitat values necessary to compensate the public for those being disturbed by the Project. As outlined above, the District diligently investigated all available and appropriate potential mitigation sites in Orange County, and has determined that

the acquisition and conservation of the Subject Property is necessary to achieve the District's mitigation requirements. The Subject Property is one of the only open space parcels that is currently not protected from development in the region. Its proximity to the existing conservation plan area, its lack of access to frontage roads and utilities, and its habitat values make it a logical candidate for permanent environmental protection.

4) An Offer Has Been Made to the Ownership Group.

The statutory offer and other procedural prerequisites to adopting the Resolution of Necessity have been satisfied. Prior to reaching this stage of the acquisition of this Property, the District engaged a real estate appraiser to value the Subject Property. An appraisal property inspection was conducted on October 26, 2022, to which all owners were invited; counsel for some of the owners attended the appraisal inspection. On December 8, 2022, the District sent the statutory offer letters, attached as Exhibit "B", to the Ownership Group based on the fair market value determined by the appraiser as required by Government Code section 7267.2. The offer letters included copies of the comparable sales data used by the appraiser to determine the fair market value, and offered compensation to each member of the Ownership Group based on their proportional interest in the property. As of the date of this report, the District has reached an agreement as to the acquisition terms with one party in the Ownership Group, the Wilkes Family Trust. The Tran owners (50% ownership) rejected the District's offer, the Belna family members (48.5% ownership) rejected the District's offer through their attorney, John Peterson, and the District has not received any response from the Richmond Family Trust.

On January 23, 2023, the appropriate hearing notices, attached as Exhibit "C", were sent to the Ownership Group informing them of their right to appear and be heard prior to the adoption of the Resolution of Necessity being presented to the District Board.¹

The District received one letter, dated February 6, 2023, regarding this matter from attorney John S. Peterson of Peterson Law Group on behalf of all owners except for the Wilkes Family Trust (attached as Exhibit "D"). Peterson Law Group maintains that "The highest and best use of the Property has not been properly determined by IRWD, and thus, the amount offered the Owners based on IRWD's highest and best use conclusion of 'open space' is inadequate and legally deficient." In the letter, Mr. Peterson states as follows:

"IRWD has failed to conduct a proper analysis of highest and best use. An appraisal completed by Michael J. Francis, MAI, in November 2020, indicates a discussion with Ms. Ilene Lundfeldt, a planner with Orange County Planning Department. According to that discussion, the Property is located within the sphere of influence of the Silverado-Modjeska Canyon Specific Plan. This supports a reasonable probability that the Property could support low density residential uses, possibly coupled with other secondary permitted uses. Mr. Francis prepared this appraisal for Mr. Robert Jacobson, Treasurer of the IRWD."

¹ The purpose of the public hearing prior to adopting a Resolution of Necessity is to discuss the necessity of the Subject Property for the Project and whether the required offer was provided. It is not appropriate to discuss the value of the Subject Property or the amount of the offer at the public hearing.

Staff disagrees with this contention. The current appraisal is legally appropriate and by being based on current general plan open space land use designation, it represents the actual “highest and best use.” The November 2020 appraisal by Mr. Francis, upon which Mr. Peterson bases his contention, is outdated, does not include current comparable values, and made a hypothetical assumption of a “possible” highest and best use of low density residential *following a general plan amendment*, which has not occurred. The language of that appraisal report is as follows:

“For purposes of this appraisal report, I have made the hypothetical assumption that the subject’s General Plan Open Space land use designation has been changed to most likely Rural Residential which is generally consistent with the subject’s zoning.”

(Emphasis in original.)

Because a general plan amendment has not occurred, the land is still designated Open Space in the County’s General Plan and serves as the appropriate “highest and best use.”

FISCAL IMPACTS:

The appraised fair market value of the Subject Property is \$549,093 which amount will be deposited with the court or state in connection with any eminent domain action.

ENVIRONMENTAL COMPLIANCE:

Environmental clearances have been completed for the Project. The environmental impacts of the Project were evaluated in the FEIR, which was certified by the Board on July 26, 2021 (State Clearinghouse #2019080009 (July 2021)).

District staff has determined that the acquisition of the Subject Property is exempt from the California Environmental Quality Act pursuant to a Class 25 exemption for the transfer of ownership of interests in land in order to preserve open space or habitat, specifically to preserve and allow restoration of natural conditions, including plant or animal habitats pursuant to CEQA Guidelines Section 15325.

COMMITTEE STATUS:

This matter was reviewed in closed session by the Engineering and Operations Committee on January 17, 2023.

RECOMMENDATIONS:

- (1) CONDUCT A PUBLIC HEARING ON, AND CONSIDER FOR ADOPTION, A RESOLUTION OF NECESSITY PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1245.230, TO ACQUIRE APPROXIMATELY 99.835 ACRES OF VACANT LAND IN UNINCORPORATED ORANGE COUNTY, CALIFORNIA LOCATED ON THE NORTH SIDE OF IRVINE LAKE, BEING A PORTION OF BLOCKS 70 AND 78 OF IRVINE’S SUBDIVISION, M.R.M. 1/88 (APNS: 105-361-07 AND 105-361-09) (THE SUBJECT PROPERTY).

- (2) ADOPT RESOLUTION NO. 2023-2 DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF MITIGATION LAND FOR THE SYPHON RESERVOIR IMPROVEMENT PROJECT AND DIRECTING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS.

LIST OF EXHIBITS:

Exhibit “A” – Resolution of Necessity

Exhibit “B” – Offer Letter, Summary of Appraisal, Eminent Domain Pamphlet (December 8, 2022)

Exhibit “C” – Letter to Owners and Notice of Intent to Adopt Resolution of Necessity and Right to Appear and Be Heard, Legal Description (January 23, 2023)

Exhibit “D” – Letter from Peterson Law Group (February 6, 2023)

RESOLUTION NO. 2023-2

RESOLUTION OF THE BOARD OF DIRECTORS OF
IRVINE RANCH WATER DISTRICT
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY
REQUIRE THE ACQUISITION OF MITIGATION LAND FOR
THE SYPHON RESERVOIR IMPROVEMENT PROJECT AND
DIRECTING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS

(APNs: 105-361-07 and 105-361-09)

A. **Authority.** The Irvine Ranch Water District ("**District**") is a California Water District organized and existing pursuant to California Water Code § 34000 *et seq.* The Board of Directors of the District ("**Board**") is the governing body of the District. The District is authorized to acquire property by eminent domain pursuant to California Water Code § 35600, the California Eminent Domain Law at Code of Civil Procedure § 1230.010 *et seq.*, including but not limited to §§ 1240.010, 1240.020, 1240.030, 1240.040, and 1240.220, and the California Constitution.

B. **The Project.** The District's Syphon Reservoir Improvement Project ("**Project**"), as proposed, will increase the capacity of the existing Syphon Reservoir, which is part of the District's recycled water system. The proposed Project would increase the storage capacity of the reservoir from approximately 578 acre feet to 5,000 acre feet, allowing the District to store more recycled water to meet its seasonal and future needs.

C. **Environmental Impact Report.** The environmental impacts of the Project were evaluated in a Final Environmental Impact Report ("**FEIR**"), which was certified by the Board on July 26, 2021 (State Clearinghouse #2019080009 (July 2021)). The Board found that in accordance with the California Environmental Quality Act ("**CEQA**") Guidelines, Section 15162, and the FEIR documents are consistent with CEQA. The Board reviewed and considered the FEIR before and as part of the process of determining whether to acquire the Subject Property (defined and described below).

D. **Mitigation Lands.** As part of the FEIR, the District evaluated the environmental impacts of the Project as well as how those impacts can be mitigated. To mitigate the Project's impact on existing biological resources, the District engaged in close coordination with state and federal natural resource agencies to develop a multi-faceted mitigation strategy, including offsite habitat restoration and preservation. The District has diligently investigated all available and appropriate potential mitigation sites in Orange County and has determined that the acquisition and conservation of the Subject Property is necessary to achieve the District's mitigation requirements. District staff has determined that the acquisition of the Subject Property is exempt from CEQA pursuant to a Class 25 exemption for the transfer of ownership of interests in land in order to preserve open space or habitat, specifically to preserve and allow restoration of natural conditions, including plant or animal habitats pursuant to CEQA Guidelines Section 15325.

E. **The Subject Property.** As necessary for the Project for offsite mitigation (habitat preservation or restoration) purposes, the District intends to acquire for the public interest, by exercise of its power of eminent domain, certain real property consisting of approximately 99.835 acres of vacant land located on the north side of Irvine Lake in unincorporated Orange County, California, northeast of Santiago Canyon Road and west of Black Star Canyon Road, identified as Orange County Assessor's Parcel Numbers 105-361-07 and 105-361-09, and more particularly described and shown on Exhibit 1 (“**Subject Property**”). According to a Litigation Guarantee furnished by First American Title Company dated November 21, 2022, the Subject Property is owned in fee by the following parties, referred to collectively as the "**Ownership Group**":

- Tran Land Company, a General Partnership (undivided 50% interest);
- David S. Belna, Trustee of the David S. Belna Trust dated May 16, 1986 (undivided 17.5% interest);
- David Belna, Successor Trustee of the Belna Family Trust dated May 16, 1986 (undivided 16.5% interest);
- Paul F. Belna, Trustee of the Paul F. Belna Trust dated September 12, 1996 (undivided 5% interest);
- Steven Belna, Trustee of the Steven Belna Trust dated April 27, 2001 (undivided 5% interest)
- Thomas H. Hale and Mary C. Hale, Trustees of the Hale Family Revocable Trust – 2011 (undivided 5% interest);
- Jill Richmond, Trustee of the Richmond Family Trust dated April 16, 1980 (undivided 0.75% interest); and
- Ron Martinez or Robert L. Wilkes, as Trustee of the Wilkes Family Trust dated July 11, 1989 (undivided 0.25% interest).

F. **Appraisal and Offer.** In compliance with California Government Code § 7267.2 and all related statutory procedures for possible acquisition of the Subject Property, District staff obtained an appraisal and presented a formal offer, with a summary of the appraisal, to the Ownership Group for the amount determined by the appraisal to be just compensation.

G. **Scheduling of Hearing and Notice of Intent to Adopt Resolution.** The District has set a public hearing on this Resolution of Necessity for February 13, 2023 and invited public comment to be made prior to the Board considering this Resolution for adoption. In compliance with California Code of Civil Procedure § 1245.210 *et seq.*, the District gave the Ownership Group notice of this hearing and a reasonable opportunity to be heard. Notice of Intent to adopt this resolution was given by first class mail to each person whose property is to

be acquired by eminent domain in accordance with California Code of Civil Procedure § 1245.235.

NOW, THEREFORE, the Board of Directors of the Irvine Ranch Water District, following a duly noticed public hearing held on this matter held on February 13, 2023, hereby finds and resolves as follows:

1. The public interest and necessity require the proposed Project; and
2. The proposed Project is planned and located in the manner that will be most compatible with the greatest public good and least private injury; and
3. Acquisition by the District of the Subject Property is necessary for the proposed Project; and
4. The District made an offer to the Ownership Group for the Subject Property in accordance with Government Code section 7267.2; and
5. General Counsel is hereby authorized to institute proceedings in eminent domain to acquire the Subject Property, and to take such other and further actions as may be necessary or convenient to give effect to this Resolution, and may deposit the probable amount of compensation and obtain an order for prejudgment possession of the Subject Property. General Counsel is further authorized to compromise and settle the eminent domain proceedings, if such settlement can be reached in the best interests of the District, and in that event, to take all necessary action to complete the acquisition, including stipulations as to judgment and other matters, and causing all payments to be made.

ADOPTED, SIGNED and APPROVED on February 13, 2023.

President, IRVINE RANCH WATER DISTRICT

Secretary, IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:
Hanson Bridgett LLP

By: _____
General Counsel

Exhibit 1
Legal Description

Real property in the unincorporated area of the County of Orange, State of California,
described as follows:

BEGINNING AT A REDWOOD POST FOUR INCHES SQUARE, IN A MOUNT OF COBBLESTONES MARKED "K" ON TOP OF A HILL OVERLOOKING THE ARROYO SANTIAGO, SAID POST BEING SHOWN ON A MAP MADE BY S. H. FINLEY, LICENSED SURVEYOR AND RECORDED IN BOOK 2, PAGE 17 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, AS BEING SOUTH 50° EAST 25.07 CHAINS AND NORTH 40° EAST 39.32 CHAINS FROM THE MOST WESTERLY CORNER OF BLOCK 78 OF IRVINE'S SUBDIVISION OF THE RANCHOS SAN JOAQUIN, LOMAS DE SANTIAGO AND FLINT AND BIXBY ALLOTMENT IN THE RANCHO SANTIAGO DE SANTA ANA, AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY; RUNNING THENCE WEST 18.47 CHAINS; THENCE NORTH 4° 15' WEST 20.50 CHAINS; THENCE EAST 17.56 CHAINS; THENCE SOUTH 74° EAST 43.18 CHAINS; THENCE SOUTH 20° WEST 13.04 CHAINS; THENCE NORTH 84° WEST 34.85 CHAINS TO THE POINT OF BEGINNING.

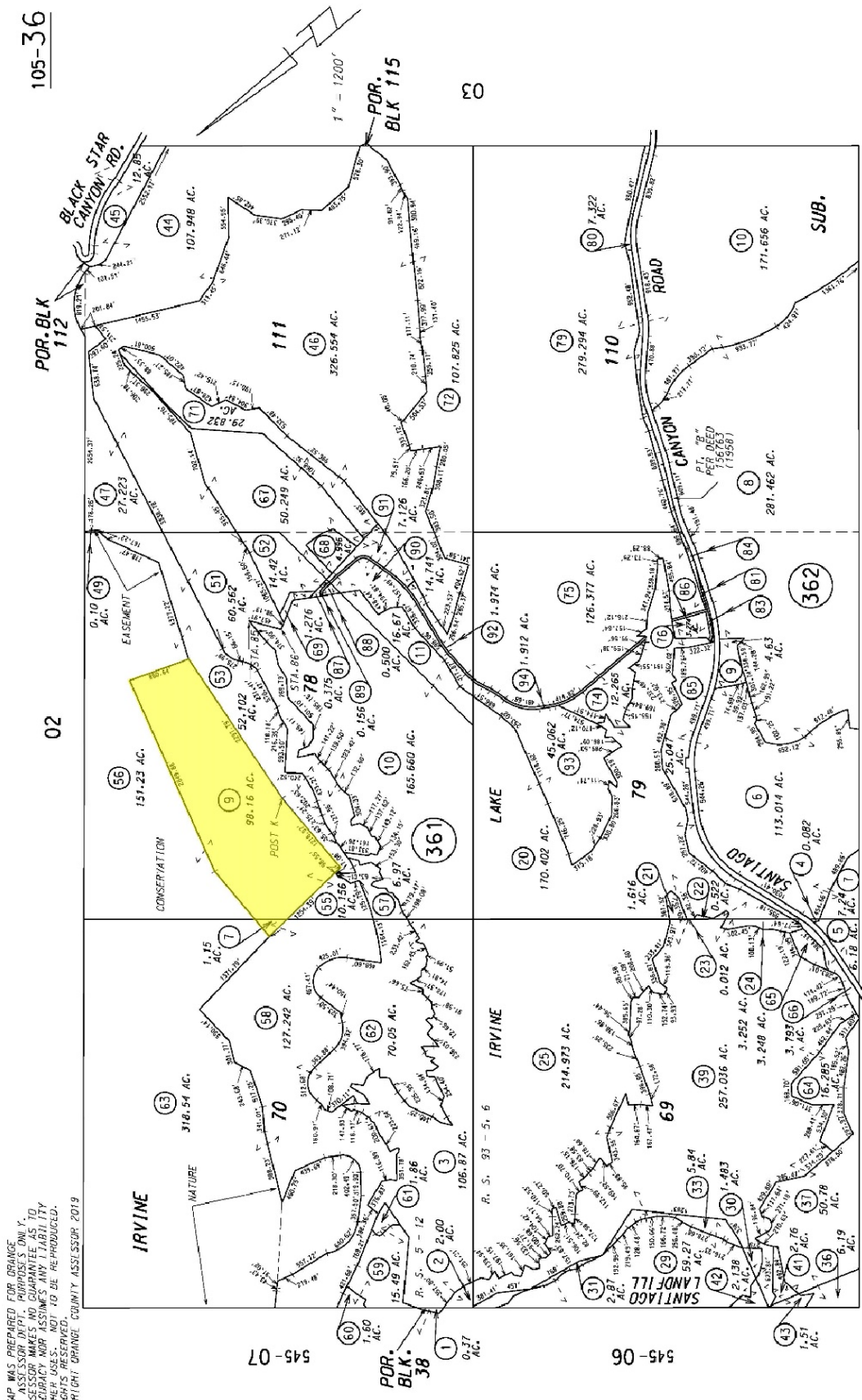
APN: 105-361-07 AND 105-361-09

ALSO SOMETIMES DESCRIBED AS FOLLOWS:

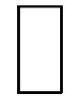
PORTIONS OF BLOCKS 70 AND 78 OF IRVINE'S SUBDIVISION, AS SHOWN ON A MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS RECORD MAPS, ORANGE COUNTY, CALIFORNIA.

Assessor's Parcel Map

105-36



THIS MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR DEPT. PURPOSES ONLY. THE ASSESSOR MAKES NO WARRANTY AS TO THE ACCURACY OF THE INFORMATION FOR OTHER USES. ALL RIGHTS RESERVED. © COPYRIGHT ORANGE COUNTY ASSESSOR 2019



NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

IRVINE SUB. M.R.M. 1-88

39

IRVINE SUB. M.R.M. 1-88

IRVINE SUB. M.R.M. 1-88

JANUARY 2003

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CLAIRE H. COLLINS
PARTNER
DIRECT DIAL (213) 395-7650
DIRECT FAX (213) 395-7665
E-MAIL ccollins@hansonbridgett.com



CONFIDENTIAL COMMUNICATION

December 8, 2022

To The Following Owners of Record:

[Service List Attached]

Tran Land Company,
a General Partnership

Steven Belna, Trustee of the Steven Belna
Trust dated April 27, 2001

David S. Belna, Trustee of the David S.
Belna Trust dated May 28, 1998

Thomas H. Hale and Mary C. Hale as Trustees
of the Hale Family Revocable Trust – 2011

David Belna, Successor Trustee of the
Belna Family Trust dated May 16, 1986

Jill Richmond, Trustee of the Richmond
Family Trust dated April 16, 1980,

Paul F. Belna, Trustee of the Paul F. Belna
Trust dated September 12, 1996

Robert L. Wilkes, Trustee of the Wilkes
Family Trust dated July 11, 1989

Re: Offer to Acquire Property Rights in Approximately 99.835 Acres of Vacant Land Located on the North Side of Irvine Lake, Unincorporated Orange County, CA Being a portion of Blocks 70 and 78 of Irvine's Subdivision, M.R.M. 1/88 Assessor's Parcel Nos.: 105-361-07 & 09

Dear Mr. Tran, Messrs. Belna, Mr. Hale, Ms. Hale, Ms. Richmond, and Mr. Wilkes:

As you are aware, our client, the Irvine Ranch Water District ("IRWD"), is seeking to acquire the above-described 99.835-acre property ("**Property**")¹ as mitigation land for IRWD's Syphon Reservoir expansion project, located in Irvine, for additional water storage. Per a search of title by First American Title Co., you have been identified as the eight fee interest holders of the Property, and together we refer to you collectively in this letter as the "**Ownership Group**."

The purpose of this letter is to provide the Ownership Group an update on our previous communications regarding acquiring the Property, and to extend to you the terms upon which IRWD offers to acquire the Property. IRWD is hopeful that the parties can reach agreement regarding a voluntary acquisition of the Property by the end of January 2023.

To ensure timely completion of the Syphon Reservoir expansion project, if a voluntary agreement cannot be reached, IRWD may have to take additional steps to acquire the Property. These steps may include the IRWD Board of Directors adopting of a resolution of necessity and the filing of an eminent domain action if the parties fail to reach agreement by January 15, 2023. Therefore, we kindly request your immediate attention to this matter.

¹ The Property has been variously reported as comprising 99.31, 99.73, 99.83, 99.85, and 100.19 acres. Larger acreages appear to contain surveying errors. IRWD selected the middle figure as the most reasonable acreage.

Just Compensation:

Randy Seale, a licensed appraiser with Allen, Williford & Seale, Inc. ("**AWS**"), has inspected and appraised the Property for the purpose of determining fair market value. Based on this appraisal, IRWD has determined that the fair market value for the Property is **\$549,093**. A copy of the summary of the appraisal is enclosed with this letter.

The Ownership Group is entitled to obtain an appraisal of the property at IRWD's expense, not to exceed \$5,000. To be reimbursed by IRWD, the owners must select an independent appraiser licensed by the California Office of Real Estate Appraisers and document the reasonable costs. If you decide to obtain such an appraisal, please let me know and we will arrange to reimburse the payor for the reasonable costs of the appraisal, up to \$5,000.

Offer to Purchase:

Based on the AWS appraisal, IRWD hereby offers to pay the amount of the appraisal, rounded up to the nearest thousand, for a total sum of **\$550,000** to the Ownership Group to purchase the Property free and clear of liens and encumbrances, but subject to existing easements, covenants, deed restrictions, and rights of way or record, and excepting therefrom all rights to oil, natural gas, or other mineral resources beneath such real property. This offer is subject to board approval at a public meeting. The amount offered is believed to be fair and just compensation for these rights based on an appraisal performed by an independent, licensed appraiser, pursuant to California Government Code section 7267.2. Payment will be made when the transfer is recorded on title to the Property.

Because the Property is held in common by eight interest holders with various percentages of ownership, IRWD offers to pay each fee interest holder the offer amount multiplied by that fee interest holder's proportion of ownership. Each of the interest holders is identified below together with their percentage ownership interest of record, and the corresponding proportion of the fair market value:

#	Fee Interest Holder Vesting Information	Offer Amount
1	Tran Land Company, a General Partnership, as to an Undivided 50% Interest	\$275,000
2	David S. Belna, Trustee of the David S. Belna Trust dated May 28, 1998, as to an Undivided 17.5% Interest	\$96,250
3	David Belna, Successor Trustee of the Belna Family Trust dated May 16, 1986, as to an Undivided 16.5% Interest	\$90,750
4	Paul F. Belna, Trustee of the Paul F. Belna Trust Dated Sep. 12, 1996, as to his Undivided 5% Interest	\$27,500
5	Steven Belna, Trustee of the Steven Belna Trust Dated April 27, 2001, as to his Undivided 5% Interest	\$27,500
6	Thomas H. Hale and Mary C. Hale as Trustees of the Hale Family Revocable Trust - 2011, as to an Undivided 5% Interest	\$27,500
7	Jill Richmond, Trustee of the Richmond Family Trust Dated April 16, 1980, as to an Undivided 0.75% Interest	\$4,125
8	Robert L. Wilkes, Trustee of the Wilkes Family Trust Dated July 11, 1989, as to an Undivided 0.25% Interest	\$1,375
	Total Compensation Offered	\$550,000

Prompt Closing Incentives:

Interest Owner Incentive. Additionally, IRWD hereby offers each of the eight interest owners a signing incentive to purchase the Property. For each of the eight interest owners that signs and returns to me the attached Owner Acceptance by January 15, 2023, IRWD will pay a \$5,000 prompt closing incentive to that interest owner when the transfer is recorded on title to property.

Group Incentive. In addition, if all eight of the Property owners sign their individual Owner Acceptance by January 15, 2023, then IRWD will pay each of the eight interest owners an additional amount of \$7,500 as a prompt closing incentive. Payment will be made when the transfer is recorded on title to the Property.

Confidential Offer

This letter constitutes IRWD's offer to purchase the property interests from you. The offers in this letter have been made under the provisions of California Evidence Code Section 1152 for the purpose of confidential settlement negotiations.

Acceptance; Settlement and Release:

If you accept this offer, please sign and return this letter by email or regular mail. By accepting the offer, you agree that the compensation described above constitutes the full and complete settlement of any and all claims against IRWD arising out of or relating to IRWD's acquisition of the Property.

If IRWD is unable to reach agreement with all owners to purchase the Property by January 15, 2023, and finalize an acquisition of all property rights by January 31, 2023, then IRWD may consider all potential options, up to and including the adoption of a resolution of necessity and the filing of an eminent domain action. If an action is filed, the appraised value of the Property (\$549,093) may be deposited into the State's Condemnation Deposit Fund. Further detail on this deposit may be found in the Eminent Domain Pamphlet enclosed with this letter.

Please contact me after you review this letter to further discuss and resolve this matter. IRWD remains hopeful that it can reach a settlement with you and the entire Ownership Group and will take every reasonable step to address your concerns.

Please do not hesitate to call me if you have any questions.

Very truly yours,



Claire Hervey Collins
Partner

Enclosures: Appraisal Summary
Eminent Domain Informational Pamphlet

cc: Rob Jacobson, IRWD
Chris Peterson, Esq., Peterson Law Group

Owner Acceptance

I hereby accept Irvine Ranch Water District's offer to acquire the property described above, approximately 99.310 Acres of Vacant Land Located on the North Side of Irvine Lake, Unincorporated Orange County, identified as APN Nos. 105-361-07 & 09, located in Orange County, California for the price stated in this offer letter. I understand that this transaction is subject to IRWD Board approval at a public meeting.

X _____
Print Name:

Date: _____

Please sign and return this Owner Acceptance via U.S. Mail to:

Claire Collins
Hanson Bridgett, LLP
777 S. Figueroa Street, Suite 4200
Los Angeles, CA 90017

or via e-mail to CCollins@hansonbridgett.com.

Property Owners - Assessor's Parcel Nos.: 105-361-07 & 09

Tran Land Company 18776 Park Brook Lane Huntington Beach, CA 92648-6812	David Belna, Successor Trustee of the Belna Family Trust dated May 16, 1986 259 Sierks St. Costa Mesa, CA 92627-2150
David S. Belna, Trustee of the David S. Belna Trust dated May 28, 1998 259 Sierks St. Costa Mesa, CA 92627-2150	Paul F. Belna, Trustee of the Paul F. Belna Trust dated September 12, 1996 28674 Jenny Lane Menifee, CA 92584-9238
Steven Belna, Trustee of the Steven Belna Trust dated April 27, 2001 PO Box 2538 Newport Beach, CA 92659-1638	Thomas H. Hale and Mary C. Hale as Trustees of the Hale Family Revocable Trust – 2011 38872 Desert Greens Dr E Palm Desert, CA 92260-1406 cc: Chris Peterson, Esq. John Peterson Katie Cram Peterson Law Group 19800 MacArthur Blvd., Suite 290 Irvine, California 92612
Jill Richmond, Trustee of the Richmond Family Trust dated April 16, 1980 7825 E Santiago Canyon Rd Orange, CA 92869-1830	Robert L. Wilkes, Trustee of The Wilkes Family Trust 918 Zenon Way Arroyo Grande, CA 93420



**Irvine Ranch Water District
Syphon Reservoir Improvement Project**

CONFIDENTIAL
This document contains personal information and pursuant to Civil Code section 1798.21 it shall be kept confidential in order to protect against unauthorized disclosure.

**APPRAISAL SUMMARY STATEMENT AND
SUMMARY OF THE BASIS OF JUST COMPENSATION**
(Pursuant to Government Code Section 7267.2)

10/26/2022
Date of Valuation

105-361-07 & 09
APN(s)

Owner: Tran Land Company, et al
 Property Address: West of Black Star Canyon Road (No Address)
 Locale: Orange, CA 92676
 Total Property Area: 99.835 Acres

Date Acquired: 9/14/2011
 Property to be acquired: 99.835 Ac
 Part | All
 Including Access Rights?
 Yes | No

BASIS OF VALUATION

Code of Civil Procedure Section 1263.320 defines Fair Market Value as follows:

- a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.
- b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

Recent sales of comparable properties are utilized as appropriate. Full consideration is given to zoning, development potential and the income the property is capable of producing.

BASIC PROPERTY DATA

Interest Valued: Fee Acquisition (Full Take)
 Date of Valuation: 10/26/2022 Original | Updated
 Applicable Zoning: A1 - General Agricultural
 Area to be acquired: 99.835 Ac (Fee Acquisition - Full Take)
 Highest and best use: Open Space
 Current use: Vacant/Open Space

AREAS WITHIN THE PROPOSED ACQUISITION

Item	Acres	Sq. Ft.
Larger Parcel	99.835	4,348,813
Fee Acquisition (Full Take)	99.835	4,348,813
Remainder Parcel	0.000	0
Easement Acquisition (None)	0.000	0
Temporary Construction Easement (None)	0.000	0

IMPROVEMENTS WITHIN THE PROPOSED ACQUISITION

There are no known improvements located on the subject property.

BASIS OF VALUATION

There are three approaches by which the value of real estate may be estimated: the Sales Comparison, Cost, and Income Capitalization Approaches. The most relevant and credible approach to value for the project’s acquisition is derived from the Sales Comparison Approach. The subject property is appraised as if it were being put to its highest and best use. The subject is currently vacant and utilized for open space purposes. Market participants and general appraisal practice view the Sales Comparison Approach as the most appropriate and relevant appraisal method for the subject property type. In the case of the subject property, the appraiser has determined that the Sales Comparison Approach for the land only will be adequate and yields a credible appraisal. Given the nature of the take and appraisal assignment, this valuation technique is appropriate and provides an accurate valuation of property.

See attached summary below for principal transactions-open space transactions.

Sale #	Location APN	Seller Buyer	Sale Date Doc #	Sale Price	Zoning	Size (Acres)	Price/Acre
<u>S-1</u>	NE/L of Modjeska Cyn Rd., at Croatia St. Silverado, CA APN: 105-202-67 & 105-201-72	Samuel P. Adams, Trustee Global Premier Development Inc.	8/18 2018000284623 & 2018000284624	\$325,000	A1	57.930	\$5,610
<u>S-2</u>	N & S/L of Irvine Mesa Truck Trl., S of Silverado Cyn Rd. Silverado, CA APN: 876-011-04	Kim Marie Meza, Successor Trustee Frederick O. Dohrmann	12/18 2018000484614	\$115,000	A1	20.000	\$5,750
<u>S-3</u>	W of Leonard Rd., N of Black Star Cyn Rd. Silverdo, CA APN: 085-100-01, 06, 07, 10, 11	Joanna Hagman, et al Adam Dietrich	9/20 2020000531699	\$205,000	A1	20.000	\$10,250
<u>S-4</u>	E of Silverado Ranch Rd., S of Silverado Cyn Rd. Silverado, CA APN: 105-051-20	Mary Martin, Trustee Jaimy L. Thompson	03/21 2021000171717	\$120,000	A1	20.000	\$6,000
<u>S-5</u>	N/L of Leonard Rd., NW of Skyline Dr. Silverado, CA APN: 085-621-10	Scott Boothe Joseph Luong Ngo	07/21 2021000465768	\$180,000	A1	44.720	\$4,025
<u>S-6</u>	N & S of Williams Cyn Rd., E of Santiago Cyn Rd. Silverado, CA APN: 105-201-17, 24, & 25; 876-021-06	Chen Tian Ming and Tan Li Kenneth W. Casey	11/21 2021000661766	\$293,000	A1	80.220	\$3,652
<u>S-7</u>	S/L of Hill Top Dr., NE of Modjeska Grade Rd. Silverado, CA APN: 867-021-08, 09, & 010	Philip S. Jackson, et al Scott Richard Steele & Kaylen Ashley Steele	06/22 2022000223775	\$225,000	A1	33.648	\$6,687

COMPENSATION SUMMARY

A. Value of the whole before acquisition:			\$549,093
Land	99.835 Ac x \$5,500 Per Acre	=	\$549,093
Improvements			\$0
B. Value of the part acquired as part of the whole:			\$549,093
Land	99.835 Ac x \$5,500 Per Acre	=	\$549,093
Improvements			\$0
C. Value of the remainder as part of the whole: (Line A less Line B)			\$0
Land			\$0
Improvements			\$0
D. Value of the remainder after the acquisition and before consideration of benefits:			\$0
Land			\$0
Improvements			\$0
E. Severance Damages:(Line C less Line D)			\$0
Land			\$0
Improvements			\$0
F. Value of the remainder after the acquisition and after considering benefits:			\$0
Land			\$0
Improvements			\$0
G. Benefits:(Line F less Line D)			\$0
Land			\$0
Improvements			\$0
<u>H. Net Damages</u> or <u>Net Benefits</u> :(difference between Lines E & G)			\$0
I. Temporary Construction Easement (Annually)			\$0
None			\$0
Total Compensation (B + H+ I)			\$549,093
			<i>Rounded</i> \$549,000

COST TO CURE DAMAGE ITEMS

NONE

Property Owner's Information Pamphlet On Use of Eminent Domain in California

A Summary of the Process and Owner's Rights

Provided by:

Irvine Ranch Water District



ABOUT THE EMINENT DOMAIN PAMPHLET

SB 698 which went into effect on January 1, 2008, requires that every property owner who is the subject of an eminent domain action must be given an “informational pamphlet” outlining the property owner’s rights under the Eminent Domain Law of California. Irvine Ranch Water District provides this pamphlet to comply with law and as an informational service to anyone who may potentially be the subject of an eminent domain action.

EMINENT DOMAIN – INFORMATION PAMPHLET (SB 698)

Introduction

Eminent domain is the power of the government to purchase private property for a "public use" so long as the property owner is paid "just compensation." Whenever possible, Irvine Ranch Water District tries to avoid use of the eminent domain power, exercising it only when it is necessary for a public project. The decision to acquire private property for a public project is made by the Irvine Ranch Water District only after a thorough review of the project, which often includes public hearings. This pamphlet provides general information about the eminent domain process and the rights of the property owner in that process.

What is a "public use"?

A "public use" is a use that confers public benefits, like the provision of public services or the promotion of public health, safety, and welfare. Public uses include a wide variety of projects such as street improvements, construction of water pipelines or storage facilities, construction of civic buildings, redevelopment of blighted areas, and levee improvements to increase flood protection. Some public uses are for private entities, such as universities, hospitals and public utilities, which serve the public.

What is "just compensation"?

Just compensation is the **fair market value** of the property being acquired by the government. The state law definition of fair market value is "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."

The Eminent Domain Process and the Property Owner's Rights

The eminent domain process begins with a public use project. When selecting a project location, the goal is to render the greatest public good and the least private injury or inconvenience. If it is determined that all or a portion of your property may be necessary for a public use project, the Irvine Ranch Water District will begin the appraisal process to determine the property's fair market value.

How is the fair market value of my property determined?

The Irvine Ranch Water District has retained an independent, accredited appraiser familiar with local property values to appraise your property. The appraiser will contact or attempt to contact you prior to his/her inspection of your property so that you can provide the appraiser with any information about improvements and any special features that you believe may affect the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to ensure that nothing of value will be overlooked. After the inspection, the appraiser will complete an appraisal that includes the appraiser's determination of your property's

fair market value and the information upon which the fair market value is based. The appraiser will provide the Irvine Ranch Water District with the appraisal. Based thereon, the Irvine Ranch Water District will submit to you a written offer to purchase the property, which includes a copy of the appraisal summary report. The offer will be for the full amount of the appraised value of your property.

What factors does the appraiser consider in determining fair market value?

Each parcel of real property is different and, therefore, no single formula can be used to appraise all properties. Among the factors an appraiser typically considers in estimating fair market value are:

- The location of the property;
- The age and condition of improvements on the property;
- How the property has been used;
- Whether there are any lease agreements relating to the property;
- Whether there are any environmental issues, such as contaminated soil;
- Applicable current and potential future zoning and land use requirements;
- How the property compares with similar properties in the area that have been sold recently;
- How much it would cost to reproduce the buildings and other structures, less any depreciation; and
- How much rental income the property produces or could produce if put to its highest and best use.

Will I receive a copy of the appraisal?

The Irvine Ranch Water District will provide you with its purchase offer, a copy of the appraisal summary report, and the basis for the Irvine Ranch Water District's offer. Among other things, this appraisal summary report included or will include:

- A general statement of the Irvine Ranch Water District's proposed use for the property;
- An accurate description of the property to be acquired;
- A list of the improvements covered by the offer;
- The amount of the offer; and
- The amount considered to be just compensation for each improvement which is owned by a tenant and the basis for determining that amount. However, the Irvine Ranch Water District is only required to show you a copy of the full appraisal if your property is an owner-occupied residential property with four or fewer residential units. Otherwise, the Irvine Ranch Water District may, but is not required, to disclose its full appraisal during negotiations (though different disclosure requirements apply during the litigation process if the issue of fair market value goes to court).

Can I have my own appraisal done?

Yes. You may decide to obtain your own appraisal of the property in negotiating the fair market value with the Irvine Ranch Water District. At the time of making its initial offer to you, the Irvine

Ranch Water District must offer to reimburse you the reasonable costs, not to exceed \$5,000, of an independent appraisal of your property. To be eligible for reimbursement, the independent appraisal must be conducted by an appraiser licensed by the State Office of Real Estate Appraisers.

What advantages are there in selling my property to the Irvine Ranch Water District?

A real estate transaction with the Irvine Ranch Water District is typically handled in the same way as the sale of private property. However, there may be a financial advantage to selling to the Irvine Ranch Water District.

- You will not be required to pay for real estate commissions, title costs, preparation of documents, title policy or recording fees required in closing the sale. The Irvine Ranch Water District will pay all these costs.
- Although the Irvine Ranch Water District cannot give you tax advice or direction, you might also be eligible for certain property and income tax advantages. You should check with the Internal Revenue Service (IRS) for details or consult your personal tax advisor.

If only a portion of my property is taken, will I be paid for the loss to my remaining property?

In general, when only a part of your property is needed, every reasonable effort is made to ensure you do not suffer a financial loss to the "remainder" property. The Irvine Ranch Water District will pay you the fair market value of the property being taken as well as compensation for any loss in value to your remaining property that is not offset by the benefits conferred by the project. The compensation for the loss in value to your remaining property is often referred to as "severance damages." Also, if any remaining part is of such a size, shape, or condition as to be of little market value, the Irvine Ranch Water District will offer to acquire that remaining part (or remnant) from you, if you so desire.

Will I be compensated for loss of goodwill to my business?

If you are the owner of a business that is conducted on the property being acquired, you may have a right to compensation for lost business goodwill if the loss is caused by the acquisition of the property. "Goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

What will happen to the loan on my property?

Where the Irvine Ranch Water District is acquiring the entire property, generally the compensation payable to the owner is first used to satisfy outstanding loans or liens as in a typical real estate transaction. Where less than the entire property is being acquired, whether outstanding loans or liens are paid from the compensation will depend on the particular facts and circumstances.

Do I have to sell at the price offered?

No. If you and the Irvine Ranch Water District are unable to reach an agreement on a mutually satisfactory price, you are not obligated to sign an offer to sell or enter into a purchase agreement.

If I agree to accept the Irvine Ranch Water District's offer, how soon will I be paid?

If you reach a voluntary agreement to sell your property or an interest in the property to the Irvine Ranch Water District, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after a purchase/sale contract is signed by all parties.

What happens if we are unable to reach an agreement on the property's fair market value?

The Irvine Ranch Water District, to the greatest extent practicable, will make every reasonable effort to acquire your property by voluntary, negotiated purchase. If, however, the negotiations are unsuccessful, the Irvine Ranch Water District may either file an eminent domain action in a court located within the same county where your property is located, or it may decide to abandon its intention to acquire the property. If the Irvine Ranch Water District abandons its intention to acquire, it will promptly notify you.

If the Irvine Ranch Water District proceeds with eminent domain, the first step is for Irvine Ranch Water District staff to request authority from the Irvine Ranch Water District Board of Directors to file a condemnation action. The approval from the Irvine Ranch Water District Board of Directors is called a "Resolution of Necessity." In considering whether condemnation is necessary, the Irvine Ranch Water District Board of Directors must determine whether the public interest and necessity require the project, whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and whether your property is necessary for the project. You will be given notice and an opportunity to appear before the Irvine Ranch Water District Board of Directors when it considers whether to adopt the Resolution of Necessity. You may want to contact an attorney or contact an attorney referral service right away. You or your representatives can raise any objections to the Resolution of Necessity and the condemnation either orally or in writing to the Irvine Ranch Water District Board of Directors.

If the Irvine Ranch Water District Board of Directors adopts the Resolution of Necessity, the Irvine Ranch Water District can file a lawsuit in court to acquire the property upon payment of the property's fair market value. The Irvine Ranch Water District is the plaintiff. Anyone with a legal interest in the property, generally determined from a title report on the property (including tenants or mortgage holders), are named as defendants. When appropriate, the Irvine Ranch Water District will also deposit the amount the Irvine Ranch Water District believes is the "probable amount of compensation" with the State Treasurer where the complaint is filed. A deposit must be made if the Irvine Ranch Water District is seeking to acquire possession of the property before agreement is reached on the fair market value.

Can the Irvine Ranch Water District acquire possession of my property before the property's fair market value is determined in the eminent domain lawsuit?

The Irvine Ranch Water District may decide it needs possession of the property before the property's fair market value is finally determined. In such a case, the Irvine Ranch Water District must apply to the court for an "order for possession" to allow it to take possession and control of the property prior to resolution of the property's fair market value. The Irvine Ranch Water District is required to schedule a hearing with the court on the proposed order for possession and to give you notice of the hearing. Notice must generally be sent at least 90 days before the hearing date if the property is occupied and 60 days before the hearing date if the property is unoccupied. A judge will decide whether the order for possession should be granted. As noted above, the Irvine Ranch Water District must deposit with the State Treasurer the probable amount of just compensation in order to obtain possession of the property.

Can I oppose the motion for an order for possession?

Yes. You may oppose the motion in writing by serving the Irvine Ranch Water District and the court with your written opposition within the period of time set forth in the notice from the Irvine Ranch Water District.

Can I rent the property from the Irvine Ranch Water District?

If the Irvine Ranch Water District agrees to allow you or your tenants to remain on the property after the Irvine Ranch Water District acquires possession, you or any tenants will be required to pay a fair rent to the Irvine Ranch Water District. Generally, such rent will not be more than that charged as rent for the use of a property similar to yours in a similar area.

Can I withdraw the amount deposited with the State Treasurer before the eminent domain action is completed, even if I don't agree that the amount reflects the fair market value of my property?

Yes. Subject to the rights of any other persons having a property interest (such as a lender, tenant, or co-owner), you may withdraw the amount deposited with the State Treasurer before the eminent domain action is completed. If you withdraw the amount on deposit, you may still seek a higher fair market value during the eminent domain proceedings, but you may not contest the right of the Irvine Ranch Water District to acquire the property, meaning you cannot contest that the acquisition of your property is for a public purpose or is otherwise improper. You also have the right to ask the court to require the Irvine Ranch Water District to increase the amount deposited with the State Treasurer if you believe the amount the Irvine Ranch Water District has deposited less than the "probable amount of compensation."

Can I contest the condemning agency's acquisition of the property?

Yes. Provided you have not withdrawn the amount deposited, you can challenge in court the Irvine Ranch Water District's right to acquire or condemn the property.

What happens in an eminent domain trial?

The main purpose of an eminent domain trial is to determine the fair market value of your property, including compensable interests such as lost business goodwill caused by the taking or severance damages. The trial is usually conducted before a judge and jury. You (and any others with interests in the property) and the Irvine Ranch Water District will have the opportunity to present evidence of value, and the jury will determine the property's fair market value. In cases where the parties choose not to have a jury, the judge will decide the property's fair market value. Generally, each party to the lawsuit must disclose its respective appraisals to the other parties prior to trial. If you challenge the Irvine Ranch Water District's right to acquire the property, the eminent domain trial will also determine whether or not the Irvine Ranch Water District has the legal right to acquire the property. In such cases, the judge (not the jury) will make this determination before any evidence is presented concerning the property's fair market value. At the end of the trial, the judge will enter a judgment requiring the Irvine Ranch Water District to pay fair market value. Once the Irvine Ranch Water District pays the amount listed in the judgment, the judge will enter a final order of condemnation. The Irvine Ranch Water District will record the final order with the County Recorder, and title to the property will then pass to the Irvine Ranch Water District.

Am I entitled to interest?

Anyone receiving compensation in an eminent domain action is generally entitled to interest on that compensation from the date the condemning agency takes possession of the property until the person receiving the compensation has been fully paid. The rate and calculation of the interest is determined under formulas in State law.

Will the Irvine Ranch Water District pay my attorneys' fees and costs?

In an eminent domain action, you are entitled to be reimbursed by the condemning agency for your court costs such as court filing fees. In some circumstances, you may also be entitled to be reimbursed by the condemning agency for your attorneys' fees in the lawsuit. Whether you will be entitled to receive reimbursement for your attorneys' fees will depend on the particular facts and circumstances of the case and the offers and demand for compensation made in the action.

Will I receive assistance with relocation?

Any person, business, or farm operation displaced as a result of the property acquisition is typically entitled to relocation advisory and financial assistance for eligible relocation expenses, such as moving expenses. The amount of relocation compensation is determined on a case-by-case basis in accordance with prescribed law. Relocation benefits are handled separate and apart from the determination of the property's fair market value and are not part of the eminent domain process.

Contact Information

We are available to answer your questions and to assist you in understanding the acquisition program and the eminent domain process. Should you desire further information, please contact Laura Ratcliffe, at 213-395-7647 or the District's representative, Rob Jacobson, at 949-453-5358.

*****This is an information pamphlet only. This pamphlet will provide you with information on eminent domain law and inform you about your rights as a property owner. However, the information in this pamphlet is not, nor should it be construed as, legal advice. It is not intended to give a complete statement on all State or Federal laws and regulations pertaining to the purchase of your property for a public use, the Relocation Assistance Program, technical legal definitions, or any form of legal advice. You should consult with qualified legal counsel regarding your specific situation rather than relying on this pamphlet as legal advice.**



January 23, 2023

VIA FIRST-CLASS MAIL

To the Following Owners of Record:

[Service List Attached]

Tran Land Company,
a General Partnership

Steven Belna, Trustee of the Steven Belna Trust
dated April 27, 2001

David S. Belna, Trustee of the David S. Belna
Trust dated May 28, 1998

Thomas H. Hale and Mary C. Hale, Trustees of the
Hale Family Revocable Trust – 2011

David Belna, Successor Trustee of the Belna
Family Trust dated May 16, 1986

Jill Richmond, Trustee of the Richmond Family
Trust dated April 16, 1980

Paul F. Belna, Trustee of the Paul F. Belna
Trust dated September 12, 1996

Robert L. Wilkes, Trustee of the Wilkes Family
Trust dated July 11, 1989

**RE: Approximately 99.835 Acres of Vacant Land Located on the North Side of Irvine Lake,
Unincorporated Orange County, CA Being a Portion of Blocks 70 and 78 of Irvine's
Subdivision, M.R.M. 1/88 (APNs: 105-361-07 and 105-361-09)**

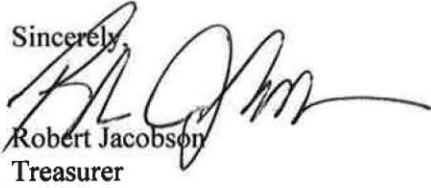
Dear Mr. Tran, Messrs. Belna, Mr. Hale, Ms. Hale, Ms. Richmond, and Mr. Wilkes:

As you are aware, the Irvine Ranch Water District ("**District**") has made an offer to you to acquire the above-captioned property. The law provides procedures for public agencies to acquire private property for public use. For one, it requires that an agency that intends to condemn property must notify the owners of that property of its intention to condemn. That notice must be provided before a resolution authorizing condemnation is submitted to the agency's governing board for adoption. The purpose of the attached Notice of Intent to Adopt Resolution of Necessity and Right to Appear and Be Heard (the "**Notice**") is to advise you that the District intends to consider adopting a resolution to acquire your property through a judicial process unless a negotiated agreement can be reached instead. A legal description of the property the District seeks is attached to the enclosed Notice. The District seeks to acquire your property—either through a negotiated purchase or if necessary through an eminent domain proceeding—for use as mitigation land in connection with its Syphon Reservoir Improvement Project.

As stated in the Notice, you have an opportunity to appear before the District's Board of Directors on February 13, 2023 and raise questions or concerns regarding the public interest, necessity, and location of the project, including the mitigation lands, as it affects your property. Within 15 days of the date of this Notice, you must file a written request to appear and be heard or you may waive this right, pursuant to Section 1245.235 of the California Code of Civil Procedure. Please note that the amount of compensation to be paid for your property will not be considered by the Board at the hearing. If the Board adopts a resolution of necessity, it will authorize the filing of an eminent domain action in the Superior Court, and the amount of compensation due will be determined in that proceeding.

Please review the enclosed Notice carefully. It explains when and where the hearing will occur and how you can appear and/or otherwise provide input for the Board's consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Jacobson', with a long horizontal flourish extending to the right.

Robert Jacobson
Treasurer

Enclosure

CC: John Peterson, Esq.



NOTICE OF INTENT TO ADOPT
RESOLUTION OF NECESSITY AND
RIGHT TO APPEAR AND BE HEARD

PUBLIC HEARING DATE: FEBRUARY 13, 2023 AT 5:00 P.M.

To the Following Owners of Record:

[Service List Attached]

Tran Land Company,
a General Partnership

Steven Belna, Trustee of the Steven Belna Trust
dated April 27, 2001

David S. Belna, Trustee of the David S. Belna
Trust dated May 28, 1998

Thomas H. Hale and Mary C. Hale, Trustees of the
Hale Family Revocable Trust – 2011

David Belna, Successor Trustee of the Belna
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Trust dated September 12, 1996

Robert L. Wilkes, Trustee of the Wilkes Family
Trust dated July 11, 1989

**RE: Approximately 99.835 Acres of Vacant Land Located on the North Side of Irvine Lake,
Unincorporated Orange County, CA Being a Portion of Blocks 70 and 78 of Irvine's
Subdivision, M.R.M. 1/88 (APNs: 105-361-07 and 105-361-09)**

NOTICE IS HEREBY GIVEN, pursuant to California Code of Civil Procedure Section 1245.235, that:

1. The Irvine Ranch Water District ("**District**") Board of Directors will consider for adoption a Resolution of Necessity, pursuant to California Code of Civil Procedure Section 1245.230, as required by law prior to the filing of an action in eminent domain to acquire the property in Unincorporated Orange County, California described in and shown on the documents attached hereto (the "**Property**").

2. If you own an interest in the Property, you have the right to appear and be heard on the matters referred to in Section 1240.030 of the Code of Civil Procedure. A copy of the Section is attached. You also have the right to be heard on the matter of whether the offer required to be made pursuant to Government Code Section 7267.2 has been made.

3. Failure to file a written request to appear and be heard within 15 days of the date of this Notice will result in waiver of your right to appear and be heard pursuant to Section 1245.235 of the Code of Civil Procedure.

If you wish to appear and be heard, please file your written request by mailing or hand delivering it to:


Leslie Bonkowski, District Secretary
Irvine Ranch Water District
15600 Sand Canyon Ave.
Irvine, CA 92618

The District's Board of Directors will consider adoption of the Resolution on **February 13, 2023 at 5:00 p.m.**, or as soon thereafter as the matter can be addressed. The Board of Directors will hold a hearing at this time providing each person filing a request an opportunity to appear and be heard. This meeting will be held in-person at the District's headquarters located at 15600 Sand Canyon Avenue, Irvine, California. The meeting will also be broadcasted via Webex for those wanting to observe the meeting virtually. To observe this meeting virtually, please join online using the link and information below:

Via Web: <https://irwd.webex.com/irwd/j.php?MTID=m25299e224b455d083f3dab51b0f88f41>
Meeting Number (Access Code): 2483 463 3306
Meeting Password: r8AvkPRPQ63

Public comments may be sent to the District Secretary at comments@irwd.com. Public comments are limited to three minutes per speaker. If you wish to address the Board of Directors on any item, you may attend the meeting in person and submit a "speaker slip" to the Secretary. Forms are provided outside of the District's Board Room. If attending via Webex, please submit your request to speak or submit your written comment via the "chat" feature. Any written comment will be read into the record at the meeting.

Please note that the price to be paid for the property will not be considered by the Board of Directors at this proceeding, and if you elect not to appear and be heard, your non-appearance will *not* be a waiver of your right to claim greater compensation in a court of law.



Leslie Bonkowski, Secretary of the
Irvine Ranch Water District

Date Mailed: January 23, 2023

Attachments:

- Property Legal Description and Depiction
- Code of Civil Procedure Section 1240.030

Legal Description

Real property in the unincorporated area of the County of Orange, State of California, described as follows:

BEGINNING AT A REDWOOD POST FOUR INCHES SQUARE, IN A MOUNT OF COBBLESTONES MARKED "K" ON TOP OF A HILL OVERLOOKING THE ARROYO SANTIAGO, SAID POST BEING SHOWN ON A MAP MADE BY S. H. FINLEY, LICENSED SURVEYOR AND RECORDED IN BOOK 2, PAGE 17 OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, AS BEING SOUTH 50° EAST 25.07 CHAINS AND NORTH 40° EAST 39.32 CHAINS FROM THE MOST WESTERLY CORNER OF BLOCK 78 OF IRVINE'S SUBDIVISION OF THE RANCHOS SAN JOAQUIN, LOMAS DE SANTIAGO AND FLINT AND BIXBY ALLOTMENT IN THE RANCHO SANTIAGO DE SANTA ANA, AS SHOWN ON A MAP THEREOF RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY; RUNNING THENCE WEST 18.47 CHAINS; THENCE NORTH 4° 15' WEST 20.50 CHAINS; THENCE EAST 17.56 CHAINS; THENCE SOUTH 74° EAST 43.18 CHAINS; THENCE SOUTH 20° WEST 13.04 CHAINS; THENCE NORTH 84° WEST 34.85 CHAINS TO THE POINT OF BEGINNING.

APN: 105-361-07 AND 105-361-09

AERIAL PHOTOGRAPH





CODE OF CIVIL PROCEDURE - CCP

PART 3. OF SPECIAL PROCEEDINGS OF A CIVIL NATURE [1063 - 1822.60] (*Part 3 enacted 1872.)*

TITLE 7. EMINENT DOMAIN LAW [1230.010 - 1273.050] (*Title 7 repealed [comm. with Section 1237] and added by Stats. 1975, Ch. 1275.)*

CHAPTER 3. The Right to Take [1240.010 - 1240.700] (*Chapter 3 added by Stats. 1975, Ch. 1275.)*

ARTICLE 1. General Limitations on Exercise of Power of Eminent Domain [1240.010 - 1240.055]
(*Article 1 added by Stats. 1975, Ch. 1275.)*

1240.030. The power of eminent domain may be exercised to acquire property for a proposed project only if all of the following are established:

- (a) The public interest and necessity require the project.
- (b) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- (c) The property sought to be acquired is necessary for the project.

(Added by Stats. 1975, Ch. 1275.)

Property Owners - Assessor's Parcel Nos.: 105-361-07 & 09

<p>Tran Land Company 18776 Park Brook Ln Huntington Beach, CA 92648-6812</p>	<p>David Belna, Successor Trustee of the Belna Family Trust dated May 16, 1986 259 Sierks St. Costa Mesa, CA 92627-2150</p>
<p>David S. Belna, Trustee of the David S. Belna Trust dated May 28, 1998 259 Sierks St. Costa Mesa, CA 92627-2150</p>	<p>Paul F. Belna, Trustee of the Paul F. Belna Trust dated September 12, 1996 28674 Jenny Ln Menifee, CA 92584-9238</p>
<p>Steven Belna, Trustee of the Steven Belna Trust dated April 27, 2001 PO Box 2538 Newport Beach, CA 92659-1638</p>	<p>Thomas H. Hale and Mary C. Hale as Trustees of the Hale Family Revocable Trust – 2011 38872 Desert Greens Dr E Palm Desert, CA 92260-1406 cc: Chris Peterson John Peterson Katie Cram Peterson Law Group 19800 MacArthur Blvd., Suite 290 Irvine, California 92612</p>
<p>Jill Richmond, Trustee of the Richmond Family Trust dated April 16, 1980 7825 E Santiago Canyon Rd Orange, CA 92869-1830</p>	<p>Robert L. Wilkes, Trustee of The Wilkes Family Trust 918 Zenon Way Arroyo Grande, CA 93420</p>

PETERSON LAW GROUP

PROFESSIONAL CORPORATION

SUITE 290

19800 MACARTHUR BOULEVARD

IRVINE, CALIFORNIA 92612

TELEPHONE: (949) 955-0127

FACSIMILE: (949) 955-9007

www.petersonlawgroup.com

February 6, 2023

Leslie Bonkowski, District Secretary
Irvine Ranch Water District
15600 Sand Canyon Ave.
Irvine, CA 92618

**Re: IRWD Hearing on Resolution of Necessity to acquire by Eminent Domain the Irvine Lake adjacent real property identified as APNs 105-361-07, - 09 (the "Property");
HEARING DATE: February 13, 2023, at 5:00 PM**

Members of the Board:

Our office represents various the following ownership interests of the referenced property: Steven Belna, Trustee of the Steven Belna Trust dated April 27, 2001; David S. Belna, Trustee of the David S. Belna Trust dated May 28, 1998; Thomas H. Hale and Mary C. Hale, as Trustees of the Hale Family Revocable Trust; David Belna, Successor of the Belna Family Trust dated May 16, 1986; Paul F. Belna, Trustee of the Belna Family Trust dated September 12, 1986; and Jill Richmond, as Trustee of the Richmond Family Trust dated April 16, 1980 (together as the "Owners").

We request that this letter be made part of the record at the February 13, 2023, hearing at which the IRWD Board will determine whether it will adopt a resolution of necessity in the above referenced matter. This letter shall serve as an objection pursuant to Code of Civil Procedure §1245.230(d), which requires that an offer be made in accordance with Government Code §7267.2 prior to adoption of a resolution of necessity. We also request the opportunity to appear and be heard at the time of the hearing.

A purported offer has been made to the Owners, but it does not comply with the legal requirements for such an offer. Prior to adopting a resolution of necessity, an offer must be made pursuant to Government Code §7267.2. Government Code §7267.2(a)(1) requires such an offer to rise to the level of "just compensation," which is defined as "fair market value" in Eminent Domain matters. This standard has long been defined in California as "the highest price estimated in terms of money which the land would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all of the uses and purposes to which it was adapted and for which it was capable." (*Klopping v. City of Whittier* [1972] 8 Cal.3d 39, 43.)

Central to the fair market value definition is an analysis and conclusion of the subject's highest and best use. "The highest and best use is defined as 'that use, among the possible alternative uses, that is physically practical, legally permissible, market supportable, and most economically feasible

Leslie Bonkowski, District Secretary
Irvine Ranch Water District
February 6, 2023
Page 2 of 2

PETERSON LAW GROUP PC

The appraiser must make a determination of highest and best use as part of the appraisal process.’ ”
(*San Diego Gas & Electric Co. v. Schmidt* [2014] 228 Cal.App.4th 1280, 1289.)

The Property is comprised of 99.835 acres of lake front land in Orange County. The IRWD appraisal summary statement in support of IRWD’s offer to purchase concludes that the highest and best use of the Property is “open space.”

IRWD has failed to conduct a proper analysis of highest and best use. An appraisal completed by Michael J. Francis, MAI, in November 2020, indicates a discussion with Ms. Ilene Lundfeldt, a planner with Orange County Planning Department. According to that discussion, the Property is located within the sphere of influence of the Silverado-Modjeska Canyon Specific Plan. This supports a reasonable probability that the Property could support low density residential uses, possibly coupled with other secondary permitted uses. Mr. Francis prepared this appraisal for Mr. Robert Jacobson, Treasurer of the IRWD.

The highest and best use of the Property has not been properly determined by IRWD, and thus, the amount offered the Owners based on IRWD’s highest and best use conclusion of “open space” is inadequate and legally deficient.

Yours very truly,



John S. Peterson

cc: Claire Collins, Esq.
Hanson Bridgett,LLP
777 S. Figueroa St., Ste. 4200
Los Angeles, CA 90017
Email: *ccollins@hansonbridgett.com*

February 13, 2023
Prepared and
submitted by: L. Bonkowski
Approved by: Paul A. Cook *P.A.C.*

CONSENT CALENDAR

BOARD MEETING MINUTES

SUMMARY:

Provided are the minutes of the January 23, 2023 Regular Board meeting and the January 31, 2023 Adjourned Regular Board meeting for approval.

FISCAL IMPACTS:

None.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

Not applicable.

RECOMMENDATION:

THAT THE MINUTES OF THE JANUARY 23 2023 REGULAR BOARD MEETING AND THE JANUARY 31, 2023 ADJOURNED REGULAR BOARD MEETING FOR APPROVAL AS PRESENTED.

LIST OF EXHIBITS:

Exhibit "A" – January 23, 2023 Minutes
Exhibit "B" – January 31, 2023 Minutes

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EXHIBIT "A"

MINUTES OF REGULAR MEETING –JANUARY 23, 2023

The regular meeting of the Board of Directors of the Irvine Ranch Water District (IRWD) was called to order at 5:00 p.m. by President McLaughlin on January 23, 2023 at the District offices, 15600 Sand Canyon Avenue, Irvine.

Directors Present: Swan, Withers, Reinhart, McLaughlin, and LaMar

Directors Absent: None.

Written and Oral Communications: None.

Also Present: General Manager Cook, Executive Director of Operations Chambers, Executive Director of Finance and Administration Clary, Executive Director of Technical Services Burton, Executive Director of Water Policy Weghorst, Director of Treasury and Risk Management Jacobson, Director of Strategic Communications and Advocacy / Deputy General Counsel Compton, Director of Water Resources Sanchez, Director of Recycling Operations Zepeda, Director of Human Resources Mitcham, Director of Safety and Security Choi, Director of Water Quality and Regulatory Compliance Colston, Director of Maintenance Manning, Director of Information Services Kaneshiro, Secretary Bonkowski, Assistant Secretary Swan, General Counsel Collins, and members of the staff and public.

CONSENT CALENDAR

Director Swan asked that Item No. 6, FISCAL YEAR 2022-23 IRWD GUIDING PRINCIPLES SCORECARD, be moved to the Action Calendar for discussion. There being no objections, this item was moved accordingly. On MOTION by Reinhart, seconded by Withers, and unanimously carried, CONSENT CALENDAR ITEMS 4, 5, AND 7 THROUGH 9 WERE APPROVED AS FOLLOWS:

4. BOARD MINUTES

Recommendation: That the minutes from the January 9, 2023 Regular Board Meeting be approved as presented.

5. DECEMBER 2022 TREASURY REPORT

Recommendation: That the Board receive and file the Treasurer's Investment Summary report, the summary of fixed and variable rate debt, and the disclosure report of reimbursements to Board members and staff, approve the December 2022 summary of payroll ACH payments in the total amount of \$3,597,020, and approve the December 2022 accounts payable disbursement summary of warrants 432315 through 433143, Workers' Compensation distributions, ACH payments, virtual card payments, wire transfers, payroll withholding distributions and voided checks in the total amount of \$17,350,014.

CONSENT CALENDAR (CONTINUED)

7. 2023 INDEX TENDER NOTES ANNUAL REMARKETING

Recommendation: That the Board adopt the following resolution by title approving the Remarketing Statement relating to Unscheduled Mandatory Tenders (Refunding Series 2011A-1 and Refunding Series 2011A-2).

RESOLUTION NO. 2023-1

RESOLUTION OF THE BOARD OF DIRECTORS OF
THE IRVINE RANCH WATER DISTRICT APPROVING
THE REMARKETING STATEMENT RELATING TO
UNSCHEDULED MANDATORY TENDERS
(REFUNDING SERIES 2011A-1 AND
REFUNDING SERIES 2011A-2)

8. BAKER WATER TREATMENT PLANT FUEL STORAGE PROJECT BID REJECTION

Recommendation: That the Board reject the bids received for the Baker Water Treatment Plant Fuel Storage project, Project 11864, and authorize staff to re-bid the project after revising the construction documents.

9. 15 MG ZONE 1 RESERVOIR INTERIOR COATING AND IMPROVEMENTS
FINAL ACCEPTANCE

Recommendation: That the Board accept construction of the 15-million-gallon Zone 1 Reservoir Interior Coating and Improvements project, authorize the General Manager to file a Notice of Completion, and authorize the payment of the retention 35 days after date of recording the Notice of Completion for Project 05761.

ACTION CALENDAR

FISCAL YEAR 2022-23 IRWD GUIDING PRINCIPLES SCORECARD

In response to Director Swan's inquiry, staff provided an update on reservoir capacity in Irvine Lake. Additionally, following discussion, General Manager Cook said he would provide updates on capacity for certain reservoirs in his Weekly Report of District Activities. There being no further discussion, on MOTION by Swan, seconded by LaMar and unanimously carried, THE FISCAL YEAR 2022-23 IRWD GUIDING PRINCIPLES SCORECARD WAS RECEIVED AND FILED.

FUNDING IRWD'S OTHER POST-EMPLOYMENT BENEFITS LIABILITY

Using a PowerPoint presentation, Manager of Strategic Planning and Analysis Smithson provided an overview for funding other Post-Employment Benefits liability. Mr. Smithson reported that IRWD has fully funded its pension liability through a combination of contributions to CalPERS and its Section 115 Pension Benefits Trust along with three other Post-Employment Benefits Plans (OPEB).

He said that currently, IRWD has no mechanism to fund its OPEB liability beyond its practice of only paying the annual required contributions.

Mr. Smithson reviewed the projected growth of the OPEB unfunded liability and outlined two approaches for managing this increasing liability which include: 1) continue the current funding strategy: pay-as-you-go and only fund the annual required contributions; or 2) establish a Section 115 Trust to facilitate future funding to reduce the unfunded OPEB liability. He said a legal opinion was provided by Pillsbury and it stated that establishing this trust would not affect the District's ability to terminate or amend its OPEB programs and confirmed that with the correct language, its assets could revert to IRWD if the plans are terminated and all OPEB liabilities are extinguished.

Director Swan reported that this item was reviewed by the Finance and Personnel Committee meeting, and the Committee concurred with the staff recommendation. Following Director Swan's request for staff to verify termination clauses, on MOTION by Swan, seconded by Reinhart and unanimously carried, **THE BOARD APPROVED ESTABLISHING A NEW SECTION 115 POST-EMPLOYMENT BENEFITS PLANS TRUST FOR THE PURPOSE OF FUNDING IRWD'S FUTURE OTHER POST-EMPLOYMENT BENEFITS LIABILITY.**

UPDATE ON SYPHON RESERVOIR IMPROVEMENT PROJECT MITIGATION AND LONG-TERM FUNDING

Using a PowerPoint presentation, Director of Water Policy Sanchez reported that the Irvine Ranch Water District is coordinating with representatives from the United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) to develop a mitigation plan for the proposed Syphon Reservoir Improvement Project. Ms. Sanchez updated the Board on these coordination efforts, the conceptual mitigation package, and associated long-term funding requirements that are being developed to mitigate impacts to sensitive habitat that surrounds Syphon Reservoir. Instead of a typical endowment, she said that staff recommends utilizing an alternative funding mechanism, such as a Conservation Agreement or Conservation Easement.

Director Reinhart said that this item was reviewed at the January 17, 2023 Engineering and Operations Committee meeting. Director Swan commented on potential flood issues associated with San Diego Creek. There being no further comments, on MOTION by Reinhart, seconded by McLaughlin and unanimously carried, **THE BOARD AUTHORIZED STAFF TO WORK WITH UNITED STATES FISH AND WILDLIFE SERVICE, CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE AND LEGAL COUNSEL TO DEVELOP MECHANISMS FOR LONG-TERM AND CONTINGENCY FUNDING, SUCH AS A CONSERVATION AGREEMENT OR EASEMENT ATTACHED TO THE LAND THAT WOULD AVOID THE NEED FOR ENDOWMENTS.**

GENERAL MANAGER'S REPORT

General Manager Cook introduced Ms. Christine Franchville, the District's new Senior Executive Assistant, working in the General Manager's office. Mr. Cook announced that Mr. Ryan Matuska was promoted to Customer Service Manager and introduced him to the Board.

Mr. Cook said that Mr. Rob Hunter, General Manager of MWDOC, recently passed. and said he placed before each Board member notice of an open house on January 26 to honor him. He asked that the Board meeting be adjourned in his honor.

Mr. Cook said that he spoke with Consultant Newell, and that he recently toured the canyons with Supervisor Wagner relative to making improvements for flooding events.

DIRECTORS' COMMENTS

Director LaMar reported that he attended an ACWA State Legislative Committee meeting.

Director Withers reported that he attended the meetings on the list along with a meeting with MWD's Chairman Adan Ortega where he introduced a new classification for infrastructure. He also noted that OCSD's General Manager Jim Herberg is retiring on February 9.

Director Swan reported that he attended the meetings on the list and that on Wednesday he will be attending a CASA conference and this Friday a Southern California Coalition meeting. He further said he was unable to attend the WACO Planning Committee meeting.

Director Reinhart reported that he attended the meetings on the list with the exception of the OCWD Board meeting and OCWD Water Issues Committee meeting. He further said he would not be able to attend this Thursday's South County Agencies meeting.

Director McLaughlin reported that she attended the Discovery Cube Partnership breakfast event.

CLOSED SESSION

Legal Counsel Collins reported that the following Closed Session would be held:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS- Pursuant to Government Code Section 54956.8:
 - Property:* Assessor's Parcel Numbers 445-072-16, County of Orange
 - Agency negotiator:* Rob Jacobson, Treasurer/Director of Risk Management, and Fiona Sanchez, Director of Water Resources
 - Negotiating parties:* The Irvine Company
 - Under negotiation:* Price and Terms of Payment

2. CONFERENCE WITH LABOR NEGOTIATOR- Pursuant to Government Code Section 54957.6:
 - Agency Designated Representatives:* Paul Cook, General Manager, and Tiffany Mitcham, Director of Human Resources
 - Employee Organization:* International Brotherhood of Electrical Workers (AFL-CIO) Local #47 for the General Unit and the Non-Exempt Supervisor Unit

OPEN SESSION

Following the Closed Session, the meeting was reconvened with Directors LaMar, Reinhart, McLaughlin, Swan, and Withers present. No action was reported.

ADJOURNMENT

President McLaughlin adjourned the meeting at approximately 6:52 p.m. in memory of Rob Hunter.

APPROVED and SIGNED this 13th day of February 2023.

President, IRVINE RANCH WATER DISTRICT

Secretary, IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

Claire Hervey Collins, General Counsel
Hanson Bridgett LLP

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EXHIBIT “B”

MINUTES OF ADJOURNED REGULAR MEETING – January 31, 2023

The adjourned regular meeting of the Board of Directors of the Irvine Ranch Water District (IRWD) was called to order at 1:00 p.m. in the Board / Sand Canyon room by President McLaughlin on January 31, 2023 at 15600 Sand Canyon Avenue, Irvine.

Directors Present: Withers (arrived at 1:24 p.m.), Swan, McLaughlin, LaMar and Reinhart.

Directors Absent: None.

Also Present: General Manager Cook, Executive Director of Technical Services Burton, Executive Director of Water Policy Weghorst, Executive Director of Finance and Administration Clary, Director of Treasury and Risk Management Jacobson, Director of Human Resources Mitcham, Director of Safety Choi, Director of Water Quality Colston, Executive Director of Operations Chambers, Director of Recycling Operations Zepeda, Director of Water Resources Sanchez, Director of Maintenance Manning, Director of Information Services Kaneshiro, Government Relations Officer/Deputy General Counsel Compton, Secretary Bonkowski, and General Counsel Collins.

WRITTEN AND ORAL COMMUNICATIONS: None.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED: None.

DRAFT IRWD 2023 GOALS AND TARGET ACTIVITIES

General Manager Cook reviewed the chart describing the Strategic Planning process. He noted the mission, vision, and guiding principles and the strategic objectives that are in the agenda package. Mr. Cook and staff reviewed the draft 2023 IRWD Goals and Target Activities list. Input from the Board was provided to staff on several of the items. Withers left the Board room at 2:32 p.m.

ADJOURNMENT

There being no further comments, President McLaughlin adjourned the meeting at 4:09 p.m.


APPROVED and SIGNED this 13th day of February 2023.

President, IRVINE RANCH WATER DISTRICT

Secretary IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

Claire Hervey Collins, General Counsel
Hanson Bridgett LLP

February 13, 2023
Prepared by: E. Lin
Submitted by: C. Clary
Approved by: Paul A. Cook 

CONSENT CALENDAR

AUDIT FIRM EXTENSION FOR THE FISCAL YEAR ENDING JUNE 30, 2023

SUMMARY:

In 2018, the Board approved a five-year professional services contract with Davis Farr LLP for financial statement audit services. To maintain continuity and ensure a smooth transition of the changes associated with the new functionalities in IRWD's Oracle Financial System, staff recommends extending the existing contract for one year with Davis Farr to perform audit services for the fiscal year ending June 30, 2023.

BACKGROUND:

In April 2018, the Board approved a five-year audit services contract commencing with fiscal year ended June 30, 2018 with Davis Farr for financial statement audit services. The five-year agreement was for \$317,620 plus possible single audit fees relating to government grants not to exceed \$13,000. Davis Farr has served as the auditor of IRWD from since 2015. Davis Farr has consistently provided quality audit services to the District, and they are familiar with the District's operations and changes. Davis Farr also performs audits for several other related entities for the District.

IRWD is in the process of implementing new functionalities which would allow the District to get a more accurate allocation of overhead in the Oracle Financial System. To maintain continuity and ensure a smooth transition of the changes associated with the new functionalities in IRWD's Oracle Financial System, staff recommends extending the existing contract with Davis Farr LLP for one year to perform audit services for the fiscal year ending June 30, 2023. Davis Farr is proposing audit fees for FY 2023 totaling \$67,850 plus possible single audit fees relating to government grants not to exceed \$3,500, an increase of 4% over the prior year.

At the end of the contract for FY 2023, staff plans to issue requests for proposals for new audit services for a new five-year term.

FISCAL IMPACTS:

The one-year agreement is for \$67,850 plus possible Single Audit fees relating to government grants not to exceed \$3,500. This amount is included in IRWD's Fiscal Year 2022-23 Operating Budget.

ENVIRONMENTAL COMPLIANCE:

This is not a project as defined in the California Environmental Quality Act (CEQA), Code of Regulations, Title 14, Chapter 3, Section 15378.

COMMITTEE STATUS:

This item was reviewed by the Finance and Personnel Committee on February 7, 2023.

RECOMMENDATION:

That the Board authorize the General Manager to execute a new one-year audit services contract with Davis Farr LLP for the fiscal year ending June 30, 2023 at a cost of \$67,850 plus possible single audit fees not to exceed \$3,500.

EXHIBITS:

Exhibit "A" – Engagement Letter from Davis Farr, LLP

Exhibit "B" – Report on Davis Farr, LLP System of Quality Control



January 31, 2023

Irvine Ranch Water District
Attn: Cheryl Clary, Executive Director, Finance & Administration
15600 Sand Canyon Ave.
Irvine, CA, 92618

Dear Ms. Clary:

We are pleased to confirm the arrangements of our engagement and the nature of the services we will provide **Irvine Ranch Water District** (the "Entity").

You have requested that we audit the business-type activities and the aggregate remaining fund information of the Entity, as of June 30, 2023 and for the year then ended and the related notes, which collectively comprise the Entity's basic financial statements as listed in the table of contents.

The objectives of our audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America (GAAS) and, if applicable, in accordance with Government Auditing Standards, and/or any state or regulatory audit requirements will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

Accounting principles generally accepted in the United States of America, (U.S. GAAP,) as promulgated by the Governmental Accounting Standards Board (GASB) require that certain required supplementary information ("RSI") such as management's discussion and analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the GASB, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America, (U.S. GAAS). These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by U.S. GAAP. This RSI will be subjected to certain limited procedures but will not be audited:

1. Management's Discussion and Analysis
2. Schedule of Changes in the Net Pension Liability and Related Ratios
3. Schedule of Pension Contributions
4. Schedule of Changes in the Net OPEB Liability and Related Ratios

Also, the document we submit to you will include the following other additional information that will not be subjected to the auditing procedures applied in our audit of the basic financial statements:

1. Introductory Information
2. Statistical Information

Auditor Responsibilities

We will conduct our audit in accordance with GAAS and in accordance with Government Auditing Standards. As part of an audit in accordance with GAAS and in accordance with Government Auditing Standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.² However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Entity's ability to continue as a going concern for a reasonable period of time.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS and in accordance with Government Auditing Standards.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any other periods.

Compliance with Laws and Regulations

As previously discussed, as part of obtaining reasonable assurance about whether the basic financial statements are free of material misstatement, we will perform tests of the Entity's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Management Responsibilities

Our audit will be conducted on the basis that management acknowledge and understand that they have responsibility:

- a. For the preparation and fair presentation of the basic financial statements in accordance with accounting principles generally accepted in the United States of America;
- b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of basic financial statements that are free from material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements; and
- c. To provide us with:
 - i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the basic financial statements such as records, documentation, and other matters;
 - ii. Additional information that we may request from management for the purpose of the audit;
 - iii. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.
 - iv. A written acknowledgement of all the documents that management expects to issue that will be included in the annual report and the planned timing and method of issuance of that annual report; and
 - v. A final version of the annual report (including all the documents that, together, comprise the annual report) in a timely manner prior to the date of the auditor's report.
- d. For including the auditor's report in any document containing basic financial statements that indicates that such basic financial statements have been audited by us;
- e. For identifying and ensuring that the entity complies with the laws and regulations applicable to its activities;
- f. For adjusting the basic financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the basic financial statements as a whole; and
- g. For acceptance of nonattest services, including identifying the proper party to oversee nonattest work;
- h. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets;
- i. For informing us of any known or suspected fraud affecting the entity involving management, employees with significant role in internal control and others where fraud could have a material effect on the financials; and
- j. For the accuracy and completeness of all information provided.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility: (a) for the preparation of the supplementary information in accordance with the applicable criteria; (b) to provide us with the appropriate written representations regarding supplementary information; (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information; and (d) to present the supplementary information with the audited basic financial statements, or if the supplementary information will not be presented with the audited basic financial statements, to make the audited basic financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management, written confirmation concerning representations made to us in connection with the audit.

Nonattest Services

With respect to any nonattest services we perform,

At the end of the year, we agree to perform the following:

- Propose adjusting or correcting journal entries detected during the audit, if applicable, to be reviewed and approved by the Entity's management.

We will not assume management responsibilities on behalf of the Entity. However, we will provide advice and recommendations to assist management of the Entity in performing its responsibilities.

The Entity's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

Our responsibilities and limitations of the nonattest services are as follows:

- We will perform the services in accordance with applicable professional standards
- The nonattest services are limited to the services previously outlined. Our firm, in its sole professional judgment, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities, including determining account coding and approving journal entries. Our firm will advise the Entity with regard to tax positions taken in the preparation of the tax return, but the Entity must make all decisions with regard to those matters.

Reporting

We will issue a written report upon completion of our audit of the Entity's basic financial statements. Our report will be addressed to the Board of Directors of the Entity. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add an emphasis-of-matter or other-matter

paragraph(s) to our auditor’s report, or if necessary, withdraw from the engagement. If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

In accordance with the requirements of Government Auditing Standards, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance will not be an objective of the audit and, therefore, no such opinion will be expressed.

Other Services

Applying Agreed-Upon Procedures

We agree to apply procedures listed in the attached schedules as of or for the period ended June 30, 2023. The Entity is responsible for the procedures listed in the attached schedules.

The Entity has agreed to and acknowledged that the procedures to be performed are appropriate to meet the intended purpose of evaluating compliance with certain agreements or regulations for the year ended June 30, 2023. The procedures we will perform may not address all the items of interest to a user of our report and may not meet the needs of all users of our report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

These agreed-upon procedures are noted in the attached schedule.

These procedures will be applied for the purpose of reporting our findings in regard to the results of the procedures performed. The procedures we will perform are for the intended use of the Entity.

We will conduct our engagement in accordance with the attestation standards for agreed-upon procedures engagements established by the American Institute of Certified Public Accountants. The agreed-upon procedures are not designed to constitute an examination or a review of the subject matter. Therefore, we will not express an opinion or a conclusion on the subject matter. We have no obligation to perform any procedures beyond those agreed to as enumerated in this letter of engagement. If, for any reason, we are unable to complete the procedures, we will not issue a report as a result of this engagement.

At the conclusion of our engagement, we will request certain written representations from you about the subject matter information and related matters. We will also issue a written report listing the agreed-upon procedures performed and our related findings. This report will be intended for use by and restricted to the use of the specified parties as identified above, and our report will contain such restricted use language.

Engagement Fees

Our fixed fees for the services previously outlined will be as follows:

Audit of Financial Statements	\$ 59,000
Single Audit, if needed	3,500
Prop 218 AUP	2,750
OCSA RA14 AUP	<u>6,100</u>
	<u>\$ 71,350</u>

Additionally, our fees are dependent on the availability, quality, and completeness of the Entity's records and, where applicable, upon the Entity's personnel providing the level of assistance identified in the "prepared by client" request list distributed at the end of our planning work (e.g., Entity employees preparing confirmations and schedules we request, locating documents selected by us for testing, etc.).

Should our assumptions with respect to these matters be incorrect, or should the condition of the records, degree of cooperation, or other matters beyond our reasonable control require additional commitments by us beyond those upon which our estimated fees are based, we may adjust our fees and planned completion dates. If significant additional time is necessary, we will discuss it with management and arrive at a new fee estimate as soon as reasonably practicable.

Other Engagement Matters

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

Enclosed, as required by *Government Auditing Standards*, is a copy of the report on the most recent peer review of our firm.

Government Auditing Standards require that we document an assessment of the skills, knowledge, and experience of management, should we participate in any form of preparation of the basic financial statements and related schedules or disclosures as these actions are deemed a non-audit service.

The undersigned is the engagement partner responsible for supervising the engagement and signing the report.

During the course of the audit we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

You agree to inform us of facts that may affect the basic financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

We agree to retain our audit documentation or work papers for a period of at least seven years from the date of our report.

At the conclusion of our audit engagement, we will communicate to the Board of Directors the following significant findings from the audit:

- Our view about the qualitative aspects of the entity's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;

- Management’s consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

The audit documentation for this engagement is the property of Davis Farr LLP and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulatory agencies pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of Davis Farr LLP’s personnel. Furthermore, upon request, we may provide copies of selected audit documentation to regulatory agencies. The regulatory agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the basic financial statements including our respective responsibilities.

We appreciate the opportunity to provide these services and believe this letter accurately summarizes the significant terms of our engagement.

Very truly yours,



Jonathan Foster, Partner
Davis Farr LLP

The services and arrangements described in this letter are in accordance with our understanding and are acceptable to us.

Irvine Ranch Water District

By _____
Executive Director, Finance and Administration

Date _____

Prop 218 Notices Agreed Upon Procedures

1. We will obtain a list of the notices sent to property owners and customers of record in IRWD's service area.
2. We will retrieve responses to the notices from the temporary post office box and count the number of protests.
3. We will calculate the protests received as a percentage of IRWD's customers to determine if more than 50% of the customers protested the rate increase.

OCSD RA14 Agreed Upon Procedures

1. We will obtain the OCSD general ledger detail for RA14 and the OCSD Cash and Investment Analysis for RA 14 to summarize a roll-forward of RA14 cash balances.
2. We will agree the annual ending cash and investment balances per the roll forward schedule to the audited financial statements.
3. We will review the prior year report to determine the impact on the cash balance at the current year. We will reconcile the cash adjustments noted in the prior year report to the related cash adjustments noted in the general ledger detail for the fiscal year.
4. We will review additional adjustments and calculations that were recorded by OCSD in the fiscal year. We will obtain support for the additional adjustments.
5. We will agree property tax revenues allocated to RA14 to the County of Orange property tax report.
6. We will obtain the 4th quarter interest income allocation recorded in RA14 and will compare the amounts to the audited financial statements. We will recalculate the interest revenue allocation.
7. We will review the capital charges to RA14, including the collection project charges. We will reconcile OCSD RA14 capital outlays to capital asset additions reported in the audited financial statements. We will obtain a schedule of capital asset activity to facilitate this reconciliation. We also will evaluate the appropriateness of depreciation charges in RA14.
8. We will review the annual integration adjustment for the fiscal year ended June 30, 2021 that is calculated to adjust IRWD's equity interest in OCSD's facilities based on changes in flows. We will trace the beginning and ending capital asset balances to amounts previously tested in step 7. We will test and recalculate the flow calculations. We will trace the flows to detailed flow reports by month.
9. We will review the documentation supporting the solids capital charges based on the Agreement for Transfer of Wastewater Solids Residuals dated April 28, 2010. We will verify the flow, load, and cost information used in the model and recalculated the charges to ensure they were in compliance with the abovementioned agreement. We will compare the solids loading information in the Solids Capital Models to the same solids loading information in the Solids O&M Models and also confirmed with IRWD staff that the numbers used in the model were accurate.

10. We will review the operating charges to RA14 including gallonage charges, salary/overhead direct charges, non-salary direct charges, and other expense. The operating charges are based on actual expenses recorded in OCSD's Fund 14 as well as an allocation of certain expenses from other funds. We reviewed source documentation for selected transactions and determined if charges were reasonable for RA14 operations.

11. We will review the documentation supporting the solids O&M charges based on the Agreement for Transfer of Wastewater Solids Residuals dated April 28, 2010.

12. We will verify the flow, load, and cost information used in the model and recalculated the charges to ensure they were in compliance with the abovementioned agreement.

Note: This page is intentionally left blank.



Report on the Firm's System of Quality Control

Davis Farr LLP

and the Peer Review Committee of the California Society of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Davis Farr LLP (the firm) in effect for the year ended May 31, 2022. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported on in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing and complying with a system of quality control to provide the firm with reasonable assurance of performing and reporting in conformity with the requirements of applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported on in conformity with the requirements of applicable professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of and compliance with the firm's system of quality control based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including a compliance audit under the Single Audit Act; and examination of a service organization (SOC 1 engagement).

As part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

CPAs ■ Advisors


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www.gylcpa.com

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Davis Farr LLP in effect for the year ended May 31, 2022, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Davis Farr LLP has received a peer review rating of *pass*.

GYL LLP

Ontario, California
August 8, 2022

February 13, 2023
Prepared and
submitted by: C. Compton
Approved by: Paul A. Cook 

CONSENT CALENDAR

LEGISLATIVE AND REGULATORY UPDATE

SUMMARY:

This report provides an update on the 2023-2024 legislative session, regulatory issues, and IRWD priorities. As legislation and regulations develop, staff will provide updates and recommendations to the Board, as appropriate. Staff recommends the Board consider the following action / position:

- *SB 23 (Caballero) – Water Supply and Flood Risk Reduction Project Expedited Permitting: “SUPPORT, AS PROPOSED TO BE AMENDED.”*

BACKGROUND:

January 20, 2023 was the last day for bill requests to be submitted to the Office of Legislative Counsel. The bill introduction deadline this year is February 17, although resolutions and constitutional amendments can be introduced after that date. The first policy committee deadlines are in late April and early May.

A copy of the Legislative Matrix is provided as Exhibit “A”. Links to the bills discussed below are included within each discussion unless a separate exhibit is noted.

State Budget Update:

Governor’s 2023-24 State Budget Proposal:

Governor Newsom unveiled his Fiscal Year 2023-2024 (FY 2023-24) state budget proposal on January 10. For FY 2023-24, the Governor’s Budget proposes \$223.6 billion in total General Fund expenditures, projects \$211.1 billion in total General Fund revenues, and proposes to transfer \$911 million from the General Fund to the Budget Stabilization Account / Rainy Day Fund, bringing the Rainy Day Fund total to \$22.4 billion. Another \$900 million is proposed for the Safety Net Reserve.

The Governor’s Budget also assumes a projected \$22.5 billion deficit. It proposes to close the projected shortfall with \$7.4 billion in funding delays, \$5.7 billion in reductions / pullbacks, \$4.3 billion in fund shifts, \$3.9 billion in trigger reductions, and \$1.2 billion in limited revenue generation and borrowing – without drawing from the state’s reserves. The Governor has noted that there is a plausible risk of recession and stated that if revenue projections drop, his May Revise could call for tapping reserves.

Of specific interest to IRWD, the Governor’s Budget provides \$27 million for the Dam Safety Fund in FY 2023-24 and reduces the allocation for water recycling funding promised in FY 2023-24 by \$40 million. This \$40 million reduction leaves recycled funding at \$270 million,

which is comprised of \$170 million for potable reuse and the final \$100 million of the \$300 million appropriation from Fiscal Years 2021-2024.

Also of note, the Governor's Budget proposes maintaining \$48 billion, or 89 percent, of the \$54 billion over five years that was previously budgeted for climate change spending, and proposes to maintain \$8.6 billion, or 98 percent, of the \$8.7 billion that was previously budgeted over multiple years to fund drought response and water resilience. The Governor's Budget includes \$194 billion in General Fund funding reductions across various programs relating to drought response and water resilience, that, if not otherwise delayed, will be restored if there are sufficient General Fund revenues in January 2024.

Commitment to Explore a Climate Bond:

Through his budget, the Governor also committed to continuing to pursue available federal funding to offset the reduction of funding for climate-related programs and committed the Administration to engaging the Legislature to explore a resiliency bond. Staff will work with the District's Sacramento advocates and associations to continue to advocate for additional funding for water infrastructure, be it through the State Budget or a general obligation bond.

2023 State Legislative Update:

SB 23 (Caballero, D-Salinas) – Water Supply and Flood Risk Reduction Project Expedited Permitting:

This year, the Association of California Water Agencies (ACWA) is sponsoring SB 23, authored by Senator Anna Caballero (D-Salinas). SB 23 would improve and streamline the regulatory permitting process for water supply and flood risk reduction projects. On January 20, ACWA's State Legislative Committee approved the legislative language that is intended to be amended into SB 23, which Senator Caballero introduced on December 5, 2022. The approved language is attached as Exhibit "B".

As proposed to be amended, SB 23 will propose to improve and streamline regulatory permitting for water supply projects and flood risk reduction projects, as defined in the legislation, by:

- Reforming the process by which an application for a Section 401 Water Quality Certification is deemed complete;
- Requiring the review and approval of Section 401 Water Quality Certifications and Lake and Streambed Alteration Agreements to be completed within 180 days of submittal of a complete permit application;
- Avoiding duplicative planning efforts by allowing certain watershed management plans that are already developed and implemented to be used for mitigation required through Section 401 Water Quality Certifications; and
- Allowing project applicants to voluntarily contribute resources to state permitting agencies to provide agencies with additional resources to meet the permitting deadlines established in the bill.

The Newsom Administration’s “[California Water Supply Strategy: Adapting to a Hotter, Drier Future](#),” in addition to outlining targets for recycling, desalination, storage, efficiency, and other water management strategies, commits the Administration to working with the Legislature and stakeholders to pursue a more expeditious process for completing, reviewing and finalizing Water Code proceedings for critical water infrastructure projects to build drought and flood resilience. SB 23 offers solutions for improving and streamlining the regulatory permitting process for water supply projects and flood risk reduction projects.

Staff recommends the Board adopt a “support, as proposed to be amended” position on SB 23.

Other State Legislation of Interest to IRWD:

Staff will update the Committee on discussions with legislative staff over potential legislation to be introduced in 2023 that would address the following:

- Leases in the context of the disposition of land under the Surplus Land Act;
- Modernizing the California Water Plan;
- Water and sewer rates; and
- Developer impact and connection fees.

2023 State Regulatory Update:

The following is a list of some of the State regulations and agency reports staff is monitoring, tracking, or planning to engage in over the next three to 12 months. As the next drafts of the regulations or reports are released for public review and comment, staff will engage, as appropriate. The pending regulations, administrative actions and reports actively being tracked include the:

- Executive and regulatory actions related to the drought;
- CARB’s [Proposed Advanced Clean Fleets Regulation](#);
- [California Endangered Species Act Listing](#) for the Southern California Steelhead;
- California Natural Resources Agency (CNRA) [30 x 30 California Implementation](#);
- CNRA’s [Water Resilience Portfolio Implementation](#) and [Resiliency 2.0](#) Implementation;
- DWR’s [2023 California Water Plan Update](#);
- DWR and the State Board’s implementation of the “[Making Water Conservation a California Way of Life](#)” legislation:
 - DWR and the State Board’s Indoor Water Use Study and Indoor Water Use Standard Recommendations;
 - [DWR’s Outdoor Water Use Recommendations](#); and
 - DWR’s Work Group on CII performance measures;
- State Board’s development of a “[Cross Connection Policy Handbook](#);”
- State Board’s [Direct Potable Reuse Regulations](#);

- State Board's implementation of the Lead and Copper Rule;
- State Board's [Safe and Affordable Funding for Equity and Resilience \(SAFER\) Drinking Water Program](#);
- State Board's development of a maximum contaminant levels for per- and polyfluoroalkyl substances (PFAS);
- State Board's [Proposed Vapor Intrusion Assessment Amendment to Resolution 92-49](#);
- The Governor's Office of Planning and Research (OPR)'s [Integrated Climate Adaptation and Resiliency Program \(ICARP\) Grant Programs](#); and
- South Coast AQMD's [Cumulative Impacts from Air Toxics for CEQA Projects](#).

2023 Federal Legislative and Regulatory Update:

Kern Fan Groundwater Storage Project Outreach:

IRWD's federal advocacy efforts in 2023 continue to largely focus on seeking federal funding for the Kern Fan Groundwater Storage Project and advocating for an increased funding authorization for the federal Water Storage Program. Staff will provide an update on those efforts.

FISCAL IMPACTS:

Not applicable.

ENVIRONMENTAL COMPLIANCE:

Not applicable.

COMMITTEE STATUS:

This item was not reviewed by a Committee.

RECOMMENDATION:

THE BOARD ADOPT A "SUPPORT, AS PROPOSED TO BE AMENDED" POSITION ON SB 23 (CABALLERO).

LIST OF EXHIBITS:

Exhibit "A" – IRWD Legislative Matrix

Exhibit "B" – ACWA Permit Streamlining Proposal Draft Bill Language

EXHIBIT “A”
IRWD 2023 LEGISLATIVE MATRIX
Updated 01/24/2023

Bill No. Author	Title	IRWD Position	Summary/Effects	Status
<u>AB 9</u> Muratsuchi (D)	California Global Warming Solutions Act of 2006		Requires the State Air Resources Board to ensure that statewide greenhouse gas emissions are reduced to at least 55% below the 1990 level by no later than December 31, 2030.	12/05/2022 - INTRODUCED.
<u>AB 12</u> Haney (D)	Tenancy: Security Deposits		Prohibits a landlord from demanding or receiving security for a rental agreement for residential property in an amount or value in excess of an amount equal to one month's rent, regardless of whether the residential property is unfurnished or furnished, in addition to any rent for the first month paid on or before initial occupancy.	12/05/2022 - INTRODUCED.
<u>AB 30</u> Ward (D)	Atmospheric Rivers: Research, Mitigation, and Climate	SUPPORT	Requires the Department of Water Resources to research, develop, and implement new observations, prediction models, novel forecasting methods, and tailored decision support systems to improve predictions of atmospheric rivers and their impacts on water supply, flooding, post-wildfire debris flows, and environmental conditions.	12/05/2022 - INTRODUCED.
<u>AB 34</u> Valencia (D)	Elections: Independent Redistricting Commissions		States the intent of the Legislature to enact legislation to establish an independent redistricting commission in the County of Orange.	12/05/2022 - INTRODUCED.
<u>AB 37</u> Bonta M (D)	Political Reform Act of 1974: Campaign Funds: Security		Authorizes a candidate or elected officer to use campaign funds to pay or reimburse the state for the reasonable costs of installing and monitoring a home or office electronic security system, and for the reasonable costs of providing personal security to a candidate, elected officer, or the immediate family and staff of a candidate or elected officer, if those costs are reasonably related to the candidate or elected officer's status as a candidate or elected officer.	12/05/2022 - INTRODUCED.
<u>AB 39</u> Grayson (D)	Digital Financial Asset Market: Regulatory Oversight		Makes legislative findings and declarations relating to state oversight of the digital financial asset market.	12/05/2022 - INTRODUCED.

IRWD 2023 LEGISLATIVE MATRIX
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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
<u>AB 43</u> Holden (D)	Greenhouse Gas Emissions: Building Materials: Credits		Expresses the intent of the Legislature to enact future legislation establishing a Low Carbon Product Standard to facilitate a credit trading platform for building materials. The bill would express the further intent of the Legislature to enact future legislation to require that the LCPS establish a compliance system.	12/05/2022 - INTRODUCED.
<u>AB 45</u> Boerner Horvath (D)	Coastal Resources: Development Permits: Blue Carbon		Authorizes the Coastal Commission to authorize blue carbon demonstration projects in order to demonstrate and quantify the carbon sequestration potential of these projects to help inform the state's natural and working lands and climate resilience strategies. The bill would, among other things, authorize the commission to require an applicant with a project that impacts coastal wetland, subtidal, intertidal, or marine habitats or ecosystems to build or contribute to a blue carbon demonstration project.	12/05/2022 - INTRODUCED.
<u>AB 57</u> Kalra (D)	California Pocket Forest Initiative		Establishes the California Pocket Forest Initiative in the Department of Forestry and Fire Protection and would authorize the department to coordinate implementation of the initiative in conjunction with the Urban Forestry Act of 1978. Upon an appropriation by the Legislature, the bill would authorize the department to provide grants to cities, counties, districts, nonprofit organizations, and public schools to establish pocket forests on public lands, as provided.	12/06/2022 - INTRODUCED.
<u>AB 62</u> Mathis (R)	Statewide Water Storage: Expansion		Establishes a statewide goal to increase above- and below-ground water storage capacity by a total of 3,700,000 acre-feet by the year 2030 and a total of 4,000,000 acre-feet by the year 2040. The bill would require the State Water Resources Control Board, in consultation with the Department of Water Resources, to design and implement measures to increase statewide water storage to achieve the statewide goal.	12/06/2022 - INTRODUCED.

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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
<u>AB 64</u> Mathis (R)	Fish and Wildlife: Beaver		States the intent of the Legislature to enact subsequent legislation that would improve beaver management and conservation across the state.	12/06/2022 - INTRODUCED.
<u>AB 66</u> Mathis (R)	Natural Resources Agency: Water Storage Projects		Requires the Natural Resources Agency, and each department, board, conservancy, and commission within the agency, to approve the necessary permits for specified projects within 180 days from receiving a permit application, and would deem those permits approved if approval does not occur within this time period.	12/06/2022 - INTRODUCED.
<u>AB 70</u> Rodriguez (D)	Emergency Response: Trauma Kits		Applies the requirement to place at least 6 trauma kits on the premises to certain structures that are constructed prior to January 1, 2023, and subject to subsequent modifications, renovations, or tenant improvements.	12/12/2022 - INTRODUCED.
<u>AB 78</u> Ward (D)	Grand Juries		Requires the fee for grand jurors to be equal to 70% of the county median daily income for each day's attendance. Requires the list of grand jurors to contain the person's gender, age, race or ethnicity, and residential ZIP Code or supervisorial district of the respective counties. Requires a separate list to be published in a newspaper containing each person's name and the name of the judge who selected the jurors.	12/15/2022 - INTRODUCED.
<u>AB 83</u> Lee (D)	Political Reform Act of 1974: Contributions		Expands the prohibition against foreign campaign contributions to include contributions, expenditures, or independent expenditures made by a foreign-influenced business entity, as defined, in connection with an election or ballot measure.	12/16/2022 - INTRODUCED.
<u>AB 99</u> Connolly (D)	State Highways: Vegetation Management: Herbicides		Requires the Department of Transportation to develop and adopt a policy to discontinue roadside spraying of herbicides and synthetic pesticides in each county where the board of supervisors has adopted a resolution that opposes the spraying of herbicides and synthetic pesticides, except where no alternative vegetation management practice is feasible or during a state of emergency	01/09/2023 - INTRODUCED.

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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
			relating to wildfire if the spraying is solely for purposes of preventing, combating, or mitigating the risk of wildfire.	
<u>AB 225</u> Grayson (D)	Real Property: Environmental Hazards Booklet		Expresses the intent of the Legislature that when the booklet developed by the Department of Real Estate concerning common environmental hazards is next updated, as existing resources permit or as private resources are made available, it be updated to include 3 new sections on wildfires, climate change, and sea level rise. Requires the State Department of Public Health to seek the advice and assistance of departments within the Natural Resources Agency in the writing of the booklet.	01/11/2023 - INTRODUCED.
<u>AB 227</u> Sanchez (R)	State Employment: Social Media Platforms		Prohibits a person from installing an application for a social media platform on a state-owned or state-issued electronic device if specified conditions are met, including that the social media company that owns the application is domiciled in, has its principal place of business in, has its headquarters in, or is organized under the laws of, a country of concern.	01/11/2023 - INTRODUCED.
<u>AB 234</u> Bauer-Kahan (D)	Microparticles		Expresses the intent of the Legislature to enact subsequent legislation that would prohibit the sale in the State of rinse-off cosmetics, detergents, waxes, and polishes that contain intentionally added synthetic polymer microparticles, including products identified in the synthetic polymer microparticle Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) restrictions adopted by the European Union (EU).	01/12/2023 - INTRODUCED.
<u>AB 241</u> Reyes (D)	Air Resources		Relates to air resources.	01/13/2023 - INTRODUCED.
<u>AB 246</u> Papan (D)	Menstrual Products: PFAS		States the intent of the Legislature to enact legislation to eliminate perfluoroalkyl and polyfluoroalkyl substances (PFAS) from menstrual products.	01/17/2023 - INTRODUCED.

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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
<u>AB 249</u> Holden (D)	Water: Schoolsites: Lead Testing: Conservation		Requires a community water system that serves a schoolsite with a building constructed before January 1, 2010, to test for lead in the potable water system of the schoolsite before January 1, 2027. Requires the community water system to report its findings to the applicable school or local educational agency.	01/18/2023 - INTRODUCED.
<u>AB 251</u> Ward (D)	California Transportation Commission: Vehicle Weight		Requires the California Transportation Commission (CTC) to convene a task force to study the relationship between vehicle weight and injuries to vulnerable road users, such as pedestrians and cyclists, and to study the costs and benefits of imposing a passenger vehicle weight fee. Requires the CTC, by no later than January 1, 2026, to prepare and submit a report to the Legislature.	01/18/2023 - INTRODUCED.
<u>AB 257</u> Hoover (R)	Encampments: Penalties		Prohibits a person from sitting, lying, sleeping, or storing, using, maintaining, or placing personal property in any street, sidewalk, or other public property within 500 feet of a school, daycare center, park, or library. The bill makes a violation of the prohibition an infraction or a misdemeanor. The bill also makes willfully resisting, delaying, or obstructing a peace officer, public officer, or public employee in the discharge or attempt to discharge any duty to enforce the prohibition a misdemeanor.	01/19/2023 - INTRODUCED.
<u>AB 262</u> Holden (D)	Children's Camps: Regulation		Requires the Department of Social Services to establish and lead a stakeholder workgroup to gather information and provide recommendations to the Legislature regarding development of subsequent legislation for children's camps. Defines a children's camp for these purposes as a program that offers daytime or overnight experiences administered by adults, provides social, cultural, educational, recreational, or artistic programming to more than 5 children between 3 and 17 years of age.	01/19/2023 - INTRODUCED.
<u>AB 270</u> Lee (D)	Public Campaign Financing		Declares the intent of the Legislature to enact legislation that would provide for public financing for election campaigns in this state.	01/23/2023 - INTRODUCED.

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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
<u>AB 277</u> Rodriguez (D)	Extreme Weather Forecast and Threat Intelligence Center		Requires the Office of Emergency Services and the Department of Water Resources to jointly establish and lead the Extreme Weather Forecast and Threat Intelligence Integration Center for the purpose of collecting, assessing, and analyzing extreme weather data and atmospheric conditions. Requires that the center be composed of representatives from specified organizations and would authorize the office and the department to invite other organizations to designate additional representatives.	01/23/2023 - INTRODUCED.
<u>ACA 1</u> Aguiar-Curry (D)	Local Government Financing: Affordable Housing		Creates an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city or county.	12/05/2022 - INTRODUCED.
<u>ACA 2</u> Alanis (R)	Public Resources: Water and Wildfire Resiliency Act		Establishes the Water and Wildfire Resiliency Fund within the State Treasury, and would require the Treasurer to annually transfer an amount equal to 3% of all state revenues that may be appropriated as described from the General Fund to the Water and Wildfire Resiliency Fund. Requires the moneys in the fund to be appropriated by the Legislature and requires that 50% of the moneys in the fund be used for water projects, and that the other 50% of the moneys in the fund be used for forest maintenance.	12/05/2022 - INTRODUCED.
<u>SB 3</u> Dodd (D)	Discontinuation of Residential Water Service	WATCH	Expands the scope of the Water Shutoff Protection Act by requiring that it instead applies to a community water system, defined to have the same meaning as existing law. Requires a community water system that supplies water to 200 service connections or fewer to comply with the act's provisions on and after August 1, 2024.	01/18/2023 - To SENATE Committee on ENERGY, UTILITIES AND COMMUNICATIONS.

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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
<u>SB 7</u> Blakespear (D)	Homelessness		States the intent of the Legislature to enact legislation regarding homelessness and the regional housing needs allocation.	01/18/2023 - To SENATE Committee on RULES.
<u>SB 12</u> Stern (D)	Global Warming Solutions Act of 2006: Emissions Limit		Requires the State Air Resources Board to ensure that statewide greenhouse gas emissions are reduced to at least 55% below the 1990 level by no later than December 31, 2030.	01/18/2023 - To SENATE Committee on ENVIRONMENTAL QUALITY.
<u>SB 20</u> Rubio (D)	Joint Powers Agreements: Regional Housing Needs		Authorizes 2 or more cities, by entering into a joint powers agreement pursuant to the Joint Exercise of Powers Act, to create a regional housing trust for the purposes of funding housing to assist the homeless population and persons and families of extremely low, very low, and low income within their jurisdictions.	01/18/2023 - To SENATE Committees on GOVERNANCE AND FINANCE and HOUSING.
<u>SB 23</u> Caballero (D)	Water Supply and Flood Risk Reduction Projects		Expresses the intent of the Legislature to enact subsequent legislation to expedite the regulatory permitting process for water supply and flood risk reduction projects, as provided.	01/18/2023 - To SENATE Committee on RULES.
<u>SB 29</u> Glazer (D)	Political Reform Act of 1974: Education Program		Relates to the Political Reform Act of 1974. Authorizes the Fair Political Practices Commission to establish and administer a political reform education program as an alternative to an administrative proceeding. Establishes eligibility requirements for the political reform education program, including that the person has little or no experience with the act and that the violation resulted in minimal or no public harm.	01/18/2023 - To SENATE Committee on ELECTIONS AND CONSTITUTIONAL AMENDMENTS.
<u>SB 31</u> Jones (R)	Encampments: Sensitive Areas: Penalties		Prohibits a person from sitting, lying, sleeping, or storing, using, maintaining, or placing personal property upon any street, sidewalk, or other public right-of-way within 1000 feet of a sensitive area. Specifies that a violation of this prohibition is a public nuisance that can be abated and prevented. The bill would also provide that a violation of the prohibition may be charged as a misdemeanor or an infraction, at the discretion of the prosecutor.	01/18/2023 - To SENATE Committee on PUBLIC SAFETY.

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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
<u>SB 34</u> Umberg (D)	Surplus Land Disposal: Violations: Orange County	WATCH	Requires the County of Orange, or any city located within Orange County, if notified by the Department of Housing and Community Development that its planned sale of surplus land is in violation of existing law, to cure or correct the alleged violation within 60 days. Prohibits an Orange County jurisdiction that has not cured or corrected any alleged violation from disposing of the parcel until the department determines that it has complied with existing law.	01/18/2023 - To SENATE Committee on GOVERNANCE AND FINANCE.
<u>SB 37</u> Caballero (D)	Tenancy		Makes findings and declarations relating to senior housing and would state the intent of the Legislature to subsequently amend this bill to include provisions than would enact meaningful tenancy reform to ensure that aging adults can remain safely housed.	01/18/2023 - To SENATE Committee on RULES.
<u>SB 38</u> Laird (D)	Battery Storage Facilities: Safety Systems		States the intent of the Legislature to enact future legislation to address the need for better safety systems at battery storage facilities.	01/18/2023 - To SENATE Committee on RULES.
<u>SB 48</u> Becker (D)	Building Performance Standards		Provides that it is the intent of the Legislature to enact subsequent legislation to create building performance standards for improvements in energy efficiency and reductions in the emissions of greenhouse gases in large buildings, including measures to ensure that making the necessary investments to improve these buildings will improve equity and avoid displacement or increased energy burdens, especially in disadvantaged communities.	01/18/2023 - To SENATE Committee on RULES.
<u>SB 55</u> Umberg (D)	Vehicles: Catalytic Converters		Prohibits a dealer or retailer from selling a new motor vehicle equipped with a catalytic converter unless the catalytic converter has been engraved or etched with the vehicle identification number of the vehicle to which it is attached.	01/18/2023 - To SENATE Committees on TRANSPORTATION and PUBLIC SAFETY.
<u>SB 57</u> Gonzalez (D)	Utilities: Extreme Weather Events		States the intent of the Legislature to enact future legislation to prohibit shutting off utility service during extreme weather events.	01/18/2023 - To SENATE Committee on RULES.

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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
<u>SB 66</u> Hurtado (D)	Water: Predictive Models and Data Collection		States the intent of the Legislature to ensure that reliable predictive models and data collection systems are used to properly forecast and allocate surface water.	01/18/2023 - To SENATE Committee on RULES.
<u>SB 68</u> McGuire (D)	Local Government		States the intent of the Legislature to enact legislation relating to local government.	01/18/2023 - To SENATE Committee on RULES.
<u>SB 69</u> Cortese (D)	Environmental Quality Act: Proceedings: Limitations		Requires a public agency to provide both the notice of determination or notice of exemption under the California Environmental Quality Act (CEQA) and any subsequent amended, corrected, or revised notice, as specified, in response to a written request for the notice, regardless of the delivery method.	01/18/2023 - To SENATE Committees on ENVIRONMENTAL QUALITY and JUDICIARY.
<u>SB 74</u> Dodd (D)	State Employment: Social Media Platforms		Prohibits applications for social media platforms from being downloaded or installed on state-owned or state-issued devices if specified conditions are met, including that an entity of concern or a country of concern directly or indirectly owns, directly or indirectly controls, or holds 10 percent or more of the voting shares of the social media company that owns the application.	01/18/2023 - To SENATE Committee on RULES.
<u>SB 79</u> Nguyen (R)	Coastal Resources: Preservation		Provides that it is the intent of the Legislature to enact subsequent legislation that would establish policy addressing coastal preservation.	01/12/2023 - INTRODUCED.
<u>SB 83</u> Wiener (D)	Public Utilities: Postentitlement Phase Permit		States the intent of the Legislature to enact subsequent legislation to require public utility companies to provide comments on postentitlement phase permit applications and connect new construction to the electrical grid within specified timeframes.	01/13/2023 - INTRODUCED.
<u>SB 84</u> Gonzalez (D)	Clean Transportation Program		States the intent of the Legislature to enact future legislation related to the Clean Transportation Program.	01/13/2023 - INTRODUCED.
<u>SB 95</u> Roth (D)	Commercial Transactions		Revises provisions of the Commercial Code generally in accordance with the revisions to Articles 1, 2, 2A, 3, 4A, 5, 7, 8,	01/18/2023 - INTRODUCED.

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Bill No. Author	Title	IRWD Position	Summary/Effects	Status
			and 9 of, the addition of Article 12 to, and the addition of specified general provisions and definitions, transitional provisions, and effective date provisions to, the Uniform Commercial Code, as proposed in the 2022 Amendments to the Uniform Commercial Code by the National Conference of Commissioners on Uniform State Laws.	
<u>SB 224</u> Hurtado (D)	Agricultural Land: Foreign Ownership and Interests		Prohibits a foreign government from purchasing, acquiring, leasing, or holding an interest, as defined, in agricultural land within the State of California. Exempts land held by foreign governments before January 1, 2024, from that prohibition.	01/19/2023 - INTRODUCED.
<u>SB 227</u> Durazo (D)	Unemployment: Excluded Workers Program		Establishes, until January 1, 2027, the Excluded Workers Program, to be administered by the Employment Development Department upon appropriation by the Legislature, for the purpose of providing income assistance to excluded workers who are ineligible for the existing state or federal benefits administered by the department and who are unemployed.	01/19/2023 - INTRODUCED.
<u>SB 229</u> Umberg (D)	Surplus Land: Disposal of Property: Violations		Requires a local agency that has received a notification of violation from the Department of Housing and Community Development to hold an open and public session to review and consider the substance of the notice of violation. Requires the local agency's governing body to provide prescribed notice no later than 14 days before the public session. Prohibits the local agency's governing body from taking final action to ratify or approve the proposed disposal until a public session is held as required.	01/23/2023 - INTRODUCED.
<u>SB 231</u> Hurtado (D)	Drought Modeling		States the intent of the Legislature to enact subsequent legislation to require the Department of Water Resources to modify its predictive models as necessary to account for California's persistent drought.	01/23/2023 - INTRODUCED.

EXHIBIT "B"

Draft Bill Language: Permit Streamlining Proposal **Association of California Water Agencies**

Section 1.

**Section XXXX is added to the Fish and Game Code, to read:
XXXX.**

(a) For purposes of this section, the following definitions apply:

(1) "Flood Risk Reduction Project" means a project or plan subject to department jurisdiction under Fish and Game Code Division 2, Chapter 6 (sections 1600-1616) that is proposed by a public agency or a public utility, to construct, alter, retrofit, maintain, manage, or improve a facility, channel, levee, or flood control modification, in which flood risk reduction or sea level rise protection is an objective of the project.

(2) "Notification" means the documents described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) of Section 1602.

(3) "Project proponent" means a public agency or public utility that proposes a water supply project or flood risk reduction project.

(4) "Water Supply Project" means a project or plan subject to department jurisdiction under Fish and Game Code Division 2, Chapter 6 (sections 1600-1616) that is proposed by a public agency or a public utility, to construct, alter, retrofit, maintain, manage, or improve a groundwater recharge, desalination, recycled water, water conveyance, surface water storage, stormwater capture, or water treatment facility.

(b) Notwithstanding any other law, if the department determines that a water supply project or a flood risk reduction project will substantially adversely affect an existing fish and wildlife resource and the project proponent completes the actions described in subdivision (c)(1) and (2) of this section, then the department shall, within 180 days of receipt of a notification from the project proponent, issue the final agreement that includes any reasonable measures mutually agreed to by the project proponent and the department pursuant to subdivision (a) of Section 1603. If the department and the project proponent are not able to reach a final agreement on all measures, then the project proponent may proceed in accordance with a final agreement issued by an arbitration panel pursuant to subdivision (b) of Section 1603, including reasonable measures necessary to protect the existing fish and wildlife resources substantially adversely affected by the water supply project or flood risk reduction project.

(c) Subdivision (b) applies after the project proponent does both of the following:

(1) Submits a complete notification for the project.

(2) Completes and submits completed environmental documentation to the department for the activity in the notification, required under Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) If the department and the project proponent mutually agree to an extension

of the date by which the department shall provide a final agreement, the date mutually agreed upon shall apply and the 180-day time period specified in subdivision (b) does not apply.

SEC. 2.

Section XXXX is added to the Water Code Division 7, Chapter 5.5 (sections 13370 to 13389), to read:

XXXX.

(a) For purposes of this section, the following definitions apply:

(1) "Flood Risk Reduction Project" means a project or plan proposed by a public agency or a public utility, to construct, alter, retrofit, maintain, manage, or improve a facility, channel, levee, or flood control modification, in which flood risk reduction or sea level rise protection is an objective of the project.

(2) "Project certification" means water quality certification required by and issued under Sections 13376, 13160, and 13260.

(3) "Project proponent" means a public agency or public utility that proposes a water supply project or flood risk reduction project.

(4) "Water board" means either the state board or the regional board, as applicable, that issues a project certification.

(5) "Water Supply Projects" means a project or plan proposed by a public agency or a public utility, to construct, alter, retrofit, maintain, manage, or improve a groundwater recharge desalination, recycled water, water conveyance, surface water storage, stormwater capture, or water treatment facility.

(b) If the project proponent desires to proceed with an application for project certification for a water supply project or flood risk reduction project pursuant to this section XXXX, then the project proponent shall request a pre-application consultation with the appropriate water board before filing its application for project certification for a water supply project or flood risk reduction project.

(1) The project proponent shall initiate pre-application consultation at least 60 days prior to the filing of the application for project certification and meetings pursuant to the consultation shall occur no less frequently than once every 60 days thereafter until the project is fully certified.

(2) The 60-day pre-application period established by this subsection (b) may run concurrently with any other pre-application or post-application consultation period that project proponent enters into as required by law with any other regulatory agency with jurisdiction.

(3) Nothing in this section XXXX shall require applicants to request or engage in pre-application consultation not otherwise required by law for any project certification.

(c) Notwithstanding any other law, the water board shall issue project certification within 180 days after a project proponent does all of the following:

(1) Requests pre-application consultation pursuant to subsection (b).

(2) Files a complete application for project certification.

(3) If required for the project, files a complete application or petition under

Water Code chapter 2 (sections 1250 to 1276) for all water rights approvals or amendments necessary to implement the project.

(4) Completes and submits completed environmental documentation to the water board for the project certification required under Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) The following procedures and requirements shall govern the water board's determination of whether an application is complete for purposes of subdivision (c).

(1)(A) The water board shall notify the project proponent in writing whether the submittal is complete not later than 30 days after the submittal of an application or petition under paragraph (1) or (2) of subdivision (c). If the submittal is determined to be incomplete, the water board shall provide the project proponent with a written notification that includes a full list of specific items that were complete and that were incomplete, and indicates the manner in which incomplete items can be made complete, including a list and thorough description of the specific information needed to complete the application or petition. The list shall be limited to those items actually required by the water board under applicable law. After the water board issues the list, the water board shall not request or require the project proponent to provide any new or additional information that was not specifically identified in the initial list of items found to be incomplete. No list shall include an extension or waiver of any of the time periods prescribed by this section.

(B) If the water board does not provide the project proponent with a written notification that includes a list of specific items that are complete and incomplete within 30 days after receipt of the initial application or petition, the application or petition shall be deemed complete.

(2) If the water board provides the written notification required by paragraph (1) determining that the application or petition is incomplete, the project proponent shall act within 45 days after receipt of the notification to submit supplemental materials in order to complete the application or petition or to appeal the determination, in whole or in part, pursuant to paragraph (4).

(3)(A) Upon receipt of any supplemental materials from the project proponent, the water board shall, within 30 days after receipt of the notification, determine the completeness of the application or petition as supplemented with the supplemental material, and whether to issue the notification of complete application required by this section. In making this determination, the water board is limited to determining whether the application or petition as supplemented includes the information specified in the water board's prior notification of incompleteness.

(B) If the supplemented application or petition is again determined not to be complete, the water board shall provide the project proponent with a written notification specifying those parts of the supplemented application or petition that are still incomplete and indicate the manner in which they can be made complete, including a full list and thorough description of the specific information needed to complete the application or petition.

(C) If the water board determines that the application or petition as supplemented is still incomplete and provides the written notification of

incompleteness required by this paragraph, the project proponent shall act within 30 days of receipt of that notification to submit additional supplemental materials in order to complete the application or petition, or to appeal the notification of incompleteness, in whole or in part, pursuant to paragraph (4).

(D) If the water board does not, within 30 days of receipt of application materials from applicant, provide the project proponent with a written notification specifying those parts of the supplemented application or petition that are still incomplete and indicating the manner in which they can be made complete, the application or petition as supplemented shall be deemed complete for purposes of this section.

(E) If the project proponent elects to supplement a previously supplemented application or petition, the deadlines and obligations set forth in this paragraph shall also apply to any supplemented application or petition.

(F) The water board may, in the course of processing the application, request the project proponent to clarify, correct, or otherwise supplement the information required for the application under subparagraph (A) of paragraph (1) of subdivision (d), so long as such information is reasonably related to and a logical outgrowth of the information and materials designated by the water board as necessary to complete an application for project certification. A request for information under this subparagraph (3)(F) shall not affect the deadlines under this subdivision (d) or subdivision (c).

(4) The project proponent may petition the state board to reconsider its own determination of application completeness, or may appeal to the state board any regional board's determination of application completeness made under subparagraphs (1) or (3) of subdivision (d). Project proponent may petition for reconsideration or appeal a determination of completeness, either in whole or in part, and the appropriate water board shall act on the petition for reconsideration or appeal not later than 60 calendar days after receipt of the appeal in accordance with subdivision (c) of Section 65943 of the Government Code. Within 30 days of the timely issuance by the state board of its final written determination of completeness, the project proponent may challenge the determination of completeness in court.

(e) This section does not supersede or otherwise amend any deadlines set forth by or in the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

(f) Except as expressly set forth in subparagraph (4) of subdivision (d) with respect to a petition to reconsider or appeal of a determination of application completeness, this section XXXX does not amend the procedures or any deadlines for administrative or judicial appeal of a project certification as set forth under state or federal law.

SEC. 3.

Codified Findings and Declarations:

Section XXXX is added to the Water Code.

Section XXXX. The Legislature finds and declares all of the following:

- (a) On April 2, 2019, the state board adopted the *Procedures for Discharge of Dredged or Fill Material to Waters of the State* (“Procedures”) which requires that any Habitat Conservation Plan approved by the United States Fish and Wildlife Service pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1539) before December 31, 2020, and any Natural Communities Conservation Plan approved by the California Department of Fish and Wildlife pursuant to the Natural Communities Conservation Planning Act before December 31, 2020, shall be used by the water boards in issuing project certifications, so long as the plan includes biological goals for aquatic resources.
- (b) The Procedures further require that the water boards shall use such approved plans as Watershed Management Plans under the Procedures unless the state board or regional board determines that the approved Habitat Conservation Plan or the Natural Communities Conservation Plan does not substantially meet the definition of a Watershed Plan (set forth in the Procedures) for aquatic resources.
- (c) To expedite water supply projects and flood risk reduction projects to better address climate change impacts while protecting the environment, the Legislature finds that for purposes of issuing project certifications in compliance with the Procedures, as they may be amended from time to time, the water boards shall expand their reliance on approved Habitat Conservation Plans, Natural Community Conservation Plans, and other Habitat Management Plans for provision of avoidance, minimization and compensatory mitigation for project certifications, so long as those plans are approved by other state and federal agencies with jurisdiction and address biological goals for aquatic resources.

**Section XXXX is added to Division 7, Chapter 5.5 (sections 13370 to 13389) of the Water Code, to read:
XXXX.**

- (a) For purposes of this section, the following definitions apply:
 - (1) “Flood Risk Reduction Project” means a project or plan proposed by a public agency or a public utility, to construct, alter, retrofit, maintain, manage, or improve a facility, channel, levee, or flood control modification, in which flood risk reduction or sea level rise protection is an objective of the project.
 - (2) “Habitat Conservation Plan” means any plan approved by the United States Fish and Wildlife Service pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1539).
 - (3) “Natural Communities Conservation Plan” means any plan approved by the California Department of Fish and Wildlife pursuant to Division 3, Chapter 10 (sections 2800-2835) of the Fish and Game Code.
 - (4) “Habitat Management Plan” means any habitat conservation plan, natural communities conservation plan, habitat management plan or other plan agreement or permit approved by or entered into by the California Department of Fish and Wildlife in connection with the authorization of take of an endangered, threatened or candidate species pursuant to Division 3, Chapter 1.5, Article 3, Section 2081.

(5) “Project certification” means water quality certification required by and issued under Sections 13376, 13160, and 13260.

(6) “Project proponent” means a public agency or public utility that proposes a water supply project or flood risk reduction project.

(7) “Procedures” means the *Procedures for Discharge of Dredged or Fill Material to Waters of the State* (State Water Resources Control Board, April 2, 2019) as they may be amended from time to time.

(8) “Water board” means either the state board or the regional board, as applicable, that issues a project certification.

(9) “Water Supply Projects” means a project or plan proposed by a public agency or a public utility, to construct, alter, retrofit, maintain, manage, or improve a groundwater recharge desalination, recycled water, water conveyance, surface water storage, stormwater capture, or water treatment facility.

(10) “Watershed Plan” means a document or set of documents, developed in consultation with relevant stakeholders, a specific goal of which is aquatic resource restoration, establishment, enhancement or preservation within a watershed, which addresses aquatic resource conditions in the watershed, addresses multiple stakeholder interests and land uses, includes information about identification of priority sites for aquatic resource restoration and protection, includes implementation measures to attain aquatic resource protection goals for the watershed, and is used by a water board in determining appropriate terms and conditions, including avoidance, minimization and compensatory mitigation conditions, to be included a project certifications.

(b)(1) Unless the water board issuing a project certification determines in writing as set forth in subparagraph (3) of this subdivision (b) that an approved plan does not substantially meet the definition of a Watershed Plan, the water board shall use the following approved plans as Watershed Plans for purposes of implementing the Procedures in issuing project certifications:

(i) Habitat Conservation Plans that include biological goals for aquatic resources;

(ii) Natural Communities Conservation Plans that include biological goals for aquatic resources; and

(iii) Habitat Management Plans that include biological goals for aquatic resources.

(2)(A) Unless the water board issuing a project certification determines in writing as set forth in subparagraph 3 of this subdivision (b) that a plan does not substantially meet the definition of a Watershed Plan, the water board shall accept, as terms of the project certification, avoidance, minimization, and compensatory mitigation for impacts to waters of the state (as defined in Water Code Section 13050(e)) provided through compliance with any approved Habitat Conservation Plan, Natural Community Conservation Plan, or Habitat Management Plan, so long as the public entity administering the Habitat Conservation Plan, Natural Community Conservation Plan, or Habitat Management Plan identifies, tracks, and publicly reports the impacts to waters of the state and the manner in which they are addressed by such avoidance, minimization and compensatory mitigation.

(B) The water board shall not impose in any project certification terms and conditions mandating avoidance, minimization, or compensatory mitigation for impacts to waters of the state in addition to that provided pursuant to subparagraph (2)(A) of this subdivision (b).

(3) For the water boards to make a determination that an approved Habitat Conservation Plan, Natural Communities Conservation Plan, or Habitat Management Plan that includes biological goals for aquatic resources does not substantially meet the definition of a Watershed Plan for purposes of issuing a project certification, the water board shall:

(A) make that proposed written determination, supported by specific written findings of insufficiency, available for public review and comment for at least thirty (30) days prior to the adoption of the determination of insufficiency; and

(B) provide written responses to public comments received on the determination of insufficiency prior to making a decision on the determination.

(c) By January 1, 2025, the state board shall review and adopt general water quality certifications for all general nationwide permits issued by the United States Army Corps of Engineers under Section 404 of the Water Pollution Control Act (33 U.S.C. Section 1344) for discharge of dredge and fill material in connection with water supply projects and flood risk reduction projects. In adopting general water quality certifications for such United States Army Corps of Engineers nationwide general section 404 permits, the state board shall to the full extent authorized by section 21083.7 of the Public Resources Code rely upon environmental review completed by the Army Corps of Engineers under the federal National Environmental Policy Act (42 U.S.C. Title 42 Sections 4321 through 4370) for compliance with its duties under the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) Beginning on January 1, 2025, and annually thereafter, the water boards shall prepare, provide public notice of, and make available for public review, a report regarding, at a minimum:

(1) the water supply projects and flood risk reduction projects for which project certifications have been issued;

(2) the water supply projects and flood risk reduction projects for which project certifications have been issued in reliance upon avoidance, minimization and compensatory mitigation created and provided through an approved Habitat Conservation Plan, Natural Communities Conservation Plan, or Habitat Mitigation Plan;

(3) any approved Habitat Conservation Plan, Natural Communities Conservation Plan, or Habitat Mitigation Plan found by the water board to be insufficient as a Watershed Management Plan and the reasons for such determination of insufficiency; and

(4) the general water quality certifications adopted by the state board for general nationwide permits issued by the United States Army Corps of Engineers under Section 404 of the Water Pollution Control Act (33 U.S.C.

Sec. 1344) to authorize discharges of dredge and fill material in connection with water supply projects and flood risk reduction projects.

SEC. 4.

Section XXXX is added to Division 7, Chapter 5.5 (sections 13370 to 13389) of the Water Code, to read:

XXXX.

(a) For purposes of this section, the following definitions apply:

(1) "Flood Risk Reduction Project" means a project or plan proposed by a public agency or a public utility, to construct, alter, retrofit, maintain, manage, or improve a facility, channel, levee, or flood control modification, in which flood risk reduction or sea level rise protection is an objective of the project.

(2) "Project certification" means water quality certification required by and issued under Sections 13376, 13160, and 13260.

(3) "Project Proponent" means a public agency or public utility that proposes a water supply project or flood risk reduction project.

(4) "State agency" means any agency, board, or commission, including the state board or the regional boards, with the power to issue a permit that would authorize a water supply project or authorize a flood risk reduction project.

(5) "Water Supply Projects" for the purpose of this section means a project or plan proposed by a public agency or a public utility, to construct, alter, retrofit, maintain, manage, or improve a groundwater recharge, desalination, recycled water, water conveyance, surface water storage, stormwater capture, or water treatment facility.

(b) A state agency may do any of the following:

(1) Enter into an agreement with a project proponent to recover costs for actions authorized by this section to expedite the review of environmental documents prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, and review, processing and issuance of project certifications, and other authorizations, permits, and approvals for water supply projects and flood risk reduction projects, with the goal of completing permit review and approval in an expeditious manner.

(2) Hire or compensate staff or contract for services needed to achieve the goal described in paragraph (1).

(3) Work collaboratively with project proponents and other agencies with jurisdiction over the water supply project or flood risk reduction project to implement an integrated regulatory approach in authorizing such projects, similar to efforts implemented by the state permitting agencies for projects funded by the San Francisco Bay Area Measure AA, the San Francisco Bay Clean Water, Pollution Prevention and Habitat Restoration Program.

(c)(1) This section does not limit or expand the authority or discretion of a state


agency with regard to conducting review of environmental documents under Division 13 (commencing with Section 21000) of the Public Resources Code, processing or issuing a project certification or other permit, approval or authorization, or imposing conditions in conjunction with the issuance of a project certification or other permit, approval or authorization.

(2) This section does not affect the project proponent's ability to phase the permitting or construction of a water supply project or flood risk reduction project.

(d) The Federal Energy Regulatory Commission, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the United States Environmental Protection Agency may, and are encouraged to, participate in implementing the integrated regulatory approach authorized by this section.

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February 13, 2023
Prepared by: N. Mwe / R. Mori
Submitted by: K. Burton
Approved by: Paul A. Cook 

CONSENT CALENDAR

SEAWATCH RECYCLED WATER PRESSURE REDUCING STATION
FINAL ACCEPTANCE

SUMMARY:

The Seawatch Recycled Water Zone G to G-Reduced Pressure Reducing Station project includes construction of a new below grade pressure reducing station. The contractor, T.E. Roberts, Inc., completed the required work and all punch list items. The project has received final inspection and acceptance of construction is recommended.

BACKGROUND:

IRWD operates a 10-inch Zone G recycled water pipeline located in a fire access road between the streets of Seawatch and Coral Cay in Crystal Cove. The access road drops approximately 200 feet in elevation, which contributes to the development of high-pressure surges in the pipeline. Over the years, the surges led to several pipe failures along this segment of pipeline. In 2020, staff contracted with JIG Consultants to complete a study to further evaluate and understand the pressure surges and to ultimately develop a design solution. Per the recommendations provided by JIG Consultants, a recycled water Zone G to G-Reduced pressure reducing station was constructed near Seawatch, which is located on the high elevation side of the fire access road. The new pressure reducing station will eliminate high pressure surges in the pipeline to mitigate against future pipeline failures.

Staff completed the design in May 2022, and T.E. Roberts, Inc. was awarded the construction contract on June 28, 2022. T.E. Roberts, Inc. completed construction of all improvements on February 3, 2023.

Project Title:	Seawatch Recycled Water Zone G to G-Reduced Pressure Reducing Station
Project No.:	11597
Design Engineer:	JIG Consultants
Construction Management by:	IRWD Staff
Contractor:	T.E. Roberts, Inc.
Original Contract Cost:	\$383,155
Final Contract Cost:	\$383,155
Original Contract Days:	150
Final Contract Days:	220

FISCAL IMPACTS:

Project 11597 is included in the FY 2022-23 Capital Budget and will be funded by regional recycled water funds. The existing budget is sufficient to fund the final payment for the project.

ENVIRONMENTAL COMPLIANCE:

This project is exempt from the California Environmental Quality Act (CEQA) as authorized under the California Code of Regulations, Title 14, Chapter 3, Section 15303, which provides categorical exemption for small facilities or structures; installation of small new equipment and facilities in small structures; water main, sewage, electrical, gas and other utility extensions, including street improvements of reasonable length to serve such construction and Section 15282, which provides statutory exemption for installation of new pipeline that does not exceed one mile (more than 5,210 feet) in length. A Notice of Exemption was filed with the Orange County Clerk's office on November 16, 2021.

COMMITTEE STATUS:

This item was not reviewed by a Committee.

RECOMMENDATION:

THAT THE BOARD ACCEPT CONSTRUCTION OF THE SEAWATCH RECYCLED WATER ZONE G TO G-REDUCED PRESSURE REDUCING STATION PROJECT, AUTHORIZE THE GENERAL MANAGER TO FILE A NOTICE OF COMPLETION, AND AUTHORIZE THE PAYMENT OF THE RETENTION 35 DAYS AFTER THE DATE OF RECORDING THE NOTICE OF COMPLETION FOR PROJECT 11597.

LIST OF EXHIBITS:

None.

February 13, 2023
Prepared by: R. Jacobson
Submitted by: C. Clary
Approved by: Paul A. Cook *P.A.C.*

ACTION CALENDAR

IRVINE LAKE – COOPERATIVE AGREEMENT
FOR FUTURE JOINT RECREATION USE

SUMMARY:

In January 2022, the Board approved the Irvine Lake Property and Recreation Rights Agreement between IRWD, Serrano Water District, the County of Orange, and the Irvine Company to resolve many outstanding real property matters. At that time, the Board also authorized the General Manager to execute a Letter of Intent (LOI) for the County to issue a joint request for proposal to select a future lessee to operate recreational activities at Irvine Lake on property owned by the County and the water districts. Staff recommends that the Board authorize the General Manager to execute the Cooperative Agreement for Irvine Lake Recreational Concession Solicitation and Administration and take any actions necessary to select a concessionaire to conduct recreational activities at Irvine Lake.

BACKGROUND:

Irvine Lake is owned jointly by IRWD and Serrano Water District. The majority of property adjacent to Irvine Lake is owned by the County following a donation from the Irvine Company of land which is now designated for open space and recreation/park use. Recreation rights for activities on the lake are owned by the County (75%) and Serrano (25%).

Currently the County manages recreation activities at Irvine Lake which include a fishing concession shop and shoreline fishing as well as a picnic area and events facility adjacent to the lake which hosts corporate outings, festivals, concerts, running and bicycle events and other activities. All recreational activities are operated by a third-party lessee based on agreements with the County.

The County's events facility is adjacent to an area of land within the lake boundaries owned by the water districts known as "the Flats". Based on discussions with the County and Serrano, the potential for a joint agreement to lease the combined area of the current event area and the Flats and to also include the fishing concessions was proposed. The lease structure would be similar in concept to the current Strawberry Farms Golf Course land lease between IRWD and the County with the County taking primary responsibility for day-to-day management of the lessee and the parties sharing lease revenues. A depiction of the future recreation areas is attached as Exhibit "A".

Cooperative Agreement Terms:

The County provided a draft Cooperative Agreement between the County, Serrano, and IRWD. The agreement states that the intent of the joint use is to provide for public recreational activities at Irvine Lake while protecting water resources and facilities, and to generate ground lease

revenue for the benefit of the parties. The draft Cooperative Agreement, attached as Exhibit “B”, has been reviewed by staff and legal counsel for each of the parties. Key terms included in the agreement include:

- The issuance of a Request for Proposal by the County and procedures to select a long-term recreation lessee to manage recreation activities (to include IRWD and Serrano participation);
- Future management responsibilities and defining permitted recreational uses within Irvine Lake and adjacent land owned by the County;
- Disclosures regarding the Districts’ planned construction project and limitations on use of the Flats property during that project;
- Provisions allowing for the permanent use of the Flats property for reservoir purposes at the discretion of the water districts; and,
- The distribution of net lease revenues from the future joint recreation use, based on land and recreation rights interests being contributed to the lease.

The County has also drafted a request for proposal (RFP) intended to facilitate the selection of one primary lessee to operate all recreation activities at and around the lake. The RFP is currently being reviewed by IRWD and Serrano staff and legal counsels. Following the issuance of the RFP and selection of a proposed lessee later this year, a final lease agreement will be presented to the Board for approval at a future meeting.

Current Approval Status:

The Serrano Water District Board has approved the terms of the Cooperative Agreement and County staff will be presenting the draft to the County Board of Supervisors later this month.

FISCAL IMPACTS:

Not known at this time.

ENVIRONMENTAL COMPLIANCE:

This item is not a project as defined in the California Environmental Quality Act Code of Regulations, Title 14, Chapter 3, Section 15378.

COMMITTEE STATUS:

This item was not reviewed by a Committee.

RECOMMENDATION:

THAT THE BOARD AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE COOPERATIVE AGREEMENT FOR IRVINE LAKE RECREATIONAL CONCESSION SOLICITATION AND ADMINISTRATION AND TAKE ANY ACTIONS NECESSARY TO SELECT A CONCESSIONAIRE TO CONDUCT RECREATIONAL ACTIVITIES AT IRVINE LAKE.

LIST OF EXHIBITS:

Exhibit "A" – Depiction of Irvine Lake

Exhibit "B" – Draft Cooperative Agreement

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**COOPERATIVE AGREEMENT FOR IRVINE LAKE
RECREATIONAL CONCESSION SOLICITATION AND ADMINISTRATION**

This Cooperative Agreement for Irvine Lake Recreational Concession Solicitation and Administration (“**Agreement**”), is made and entered into effective as of _____, 2023 (“**Effective Date**”), by and among IRVINE RANCH WATER DISTRICT, a California water district organized under and existing pursuant to Section 34000 *et seq.* of the California Water Code (“**IRWD**”), SERRANO WATER DISTRICT, a political subdivision of the State of California formed and operating under the Irrigation District Law, California Water Code Section 20500 *et seq.* (“**SWD**”) (IRWD and SWD are collectively the “**Districts**”) and the COUNTY OF ORANGE, a political subdivision of the State of California (the “**County**”), each individually known as “**Party**” and collectively known as the “**Parties**.”

A. The Districts are the fee owners of a dam and reservoir facility commonly known as “Irvine Lake” or the “Santiago Reservoir” (together with SWD’s Recreation Rights identified below, the “**Reservoir Property**”). The Reservoir Property is comprised of the following real property which is described in Exhibit 1 and depicted in Exhibit 2: (1) the “Flats” and (2) the “Lake and Dam” constituting that portion of the Reservoir Property outside of the Flats.

B. SWD owns a twenty-five percent (25%) interest and the County owns a seventy-five percent (75%) interest, respectively, in the right to conduct recreational activities in the waters at Irvine Lake (the “**Recreation Rights**”), as defined in the prior agreement between the Parties entitled *Declaration of Covenants and Restrictions and Termination of Reversionary Rights (Irvine Lake)* (the “**Declaration**”) and further described in Exhibit C of the Declaration, recorded as Document No. 2022000107214 in the Official Records of Orange County on March 18, 2022.

C. The Districts use water from the Reservoir Property to supply their water customers and conduct activities consistent with those “Restrictions” as defined and set forth and recorded in the Declaration (“**Reservoir Purposes**”).

D. The County owns real property adjacent to and surrounding the Reservoir Property (together with its Recreation Rights, the “**County's Property**”).

E. The Districts' Dam and Spillway construction project at the Reservoir Property is anticipated to begin in 2024 or 2025 (the “**Districts' Construction Project**”).

F. The Parties are parties to the *Irvine Lake Access and Use License (Shoreline Fishing)* effective July 1, 2019 (as amended, the “**Fishing License**”), under which the Districts license the use of certain portions of the Reservoir Property to the County for “**Recreational Activities**” (as defined in that License). The Fishing License expires upon the execution of a lease agreement for recreational activities at the Reservoir Property, unless terminated earlier according to its terms.

G. The Parties desire, as memorialized in the Letter of Intent (“**LOI**”) executed by the Parties on or about March 2022¹, to reduce long-term property management costs and to maximize

¹ The obligations of the Parties under the LOI have been incorporated into this Agreement, and to the extent of any conflict between this Agreement and the LOI, the terms and conditions of this Agreement shall control.

authorized public recreational benefits and revenue potential of the Reservoir Property and the County's Property by preparing, soliciting and evaluating a joint Request for Proposals ("**Joint RFP**") and negotiating, preparing and executing the mutual option to ground lease ("**Option to Lease**") and ground lease ("**Lease Agreement**") of portions of the Reservoir Property and County's Property to the selected tenant ("**Tenant**") (the Joint RFP, Option to Lease and Lease Agreement are collectively referred to herein as the "**Lake Concession**").

H. The purpose of this Agreement is to define the Parties' respective roles, rights and responsibilities with respect to the Lake Concession.

The Parties therefore agree as follows:

1. SCOPE OF AGREEMENT

This Agreement specifies the roles and responsibilities of the Parties as they pertain to the Lake Concession. The Parties shall cooperate and coordinate with the other Parties in all activities covered by this Agreement and any other supplemental agreements that may be required to facilitate the purposes of this Agreement.

2. LAKE CONCESSION GOAL

It is the Parties' intent for the Lake Concession to provide for public recreational activities at Irvine Lake while protecting water resources and facilities, reduce the Parties' long-term property management costs, and generate ground lease revenue for the benefit of all Parties and the inhabitants of the Parties' jurisdictions. The Parties will mutually select a Tenant to continue fishing, develop recreational uses, and manage publicly accessible property at Irvine Lake consistent with uses allowed by the Declaration and subject to the operational restrictions set forth by the Districts associated with the Reservoir Purposes, as well as any applicable requirements of regulatory authorities. The Lease Agreement will replace and supersede the Fishing License.

3. RESPONSIBILITIES OF ALL PARTIES

3.1 Assignment of Rights. Each Party shall assign and lease any rights reasonably necessary, as a part of the Lease Agreement, for the successful operations of the potential Tenant, including the ability to access the lake, shoreline, and dry lake beds to run a public fishing concession.

3.2 Fishing Pilot Program. Pending the execution of all instruments related to fulfilling the Lake Concession, and so long as it does not interfere with the Districts' Construction Project and/or the use of the Lake for Reservoir Purposes, the Parties shall continue the current Irvine Lake fishing pilot program as set forth in the current terms and conditions of the Fishing License.

3.3 Lease Agreement Protections. The Parties shall seek the negotiation of the following into the Lease Agreement:

A. Remedies to protect Parties' interests in case of:

- (i) Tenant operating at a loss,
- (ii) Restrictions by oversight entities on uses at Irvine Lake, and
- (iii) Tenant failing to make any payment of rent

B. Requirements that the Tenant provide insurance and indemnification of the Parties for all activities that occur anywhere in and around Irvine Lake pursuant to the Lease Agreement.

C. Disclosures regarding the Districts' Construction Project and the limitations on use of the leased property during that project, and the condition of the Flats at the conclusion of that project.

D. A meeting of the Tenant and the Parties to review the condition of the leased property and the state of the Lease Agreement to be held annually. The County shall give notice at least 60 days prior to each annual meeting. If the County fails to timely send notice or convene the meeting, then either of the Districts may send notice of the meeting.

E. The Parties shall not allow or cause unnecessary waste or devaluation of their respective property contributions to the Lease Agreement. Activities that are necessary for the Districts' Construction Project will not be deemed wasteful or unnecessary.

3.4 Joint RFP. The Parties shall cooperate in the drafting and release of the Joint RFP, and respectively provide any necessary staffing to prepare, review, and release the Joint RFP. Each Party shall designate two (2) staff members or appointees to serve on the evaluation panel for the Joint RFP.

3.5 Start-up Costs; Rent Abatement. Once Joint RFP responses are received, the Parties shall discuss the handling of start-up costs and associated rent abatement, if any, to the mutual benefit of the Parties, to be memorialized in the Lease Agreement.

3.6 Board Approval. The Joint RFP evaluation panel's selections of a primary and secondary proposer, as well as final approval of the Option to Lease and Lease Agreement, will be subject to the approval of the County Board of Supervisors and the Districts' Board of Directors, who may delegate the approval authority to their staff.

3.7 Ratings and Scoring Methodology. Ratings and scoring methodology used by the Joint RFP evaluation panel shall be mutually agreed upon by the Parties prior to the convening of the evaluation panel.

4. RESPONSIBILITIES OF COUNTY

4.1 Lead Agency. The County will act as lead agency, with the Districts' reasonable input, for drafting and releasing the Joint RFP, pursuing evaluation of the proposals, and CEQA, as necessary, for the purposes of the Lease Agreement.

4.2 Lease Administrator. The Districts and the County, each contributing property owned in their respective individual capacities to the lease area, shall execute the Lease Agreement collectively as “Lessor.” However, the County shall serve as the administrator of the Lease Agreement and act on behalf of all Parties in the capacity as landlord for all of the purposes of administration and enforcement of the terms and conditions of the Lease Agreement, the terms of which shall be agreed upon by the Parties.

4.3 Evaluation Panel. The County will form an evaluation panel for Joint RFP responses, with two (2) representatives from each of the Parties for a total of six (6) members on the panel.

4.4 Staffing and Oversight Costs. The County shall bear any and all costs associated with staffing and oversight necessary for the development and solicitation of the Joint RFP, except for Districts’ staff costs related to this Agreement and the Joint RFP.

4.5 Property Contribution. The County shall contribute the following portions of the County’s Property toward the Lake Concession:

A. 10.07-acre portion of “Recreation Parcel” described in Exhibit 3 and depicted in Exhibit 4. This portion facilitates shoreline fishing and includes the entrance to Irvine Lake, tackle shop, and parking area, but does not include the RV storage area.

B. 73.9-acre “License Parcel” described in Exhibit 5 and depicted in Exhibit 6, which is primarily used as an event center to host picnics, barbeques, group parties, concerts, and other special events, and is improved with a landscaped park, pond with bridge, sports fields, parking areas, and other amenities.

C. Seventy-five percent (75%) interest in Recreation Rights; so as to authorize their exclusive use by the selected Tenant, but shall remain owned by County.

D. Any access rights to the County’s Property as required to accommodate recreational fishing and any other recreational uses contemplated in the Joint RFP.

5. RESPONSIBILITIES OF DISTRICTS

5.1 Districts’ Construction Project. Nothing in this Section or this Agreement will prevent the Districts from restricting activities of the Tenant as necessary or convenient for the Districts’ Construction Project.

A. Except in exigent circumstances, the Districts shall make best efforts to provide the County with no less than 30 days’ notice of any proposed restrictions to be imposed upon the Tenant to allow the County to provide notice to the Tenant in compliance with the terms of the Lease Agreement.

B. Districts shall provide the County with quarterly staff reports throughout the Districts’ Construction Project to inform the County about any issues that may affect the administration of the Lease Agreement and allow the County to make any preparations necessary to satisfy the Parties’ obligations related thereto.

C. After completion of the Districts' Construction Project, the Districts shall restore any portions of the Reservoir Property used for the Districts' Construction Project, and leased to the Tenant, to a condition reasonably similar to the condition existing prior to the Districts' Construction Project.

5.2 CEQA. The Districts shall cooperate in the County's development of any CEQA review and documentation, and shall provide the County with any information within their control that assists the County in its role as lead agency for CEQA purposes, including providing any studies or environmental analysis done as part of the Districts' Construction Project.

5.3 Evaluation Panel. The Districts shall each appoint two (2) representatives to serve on the Evaluation Panel for the Joint RFP.

5.4 Property Contribution. The Districts shall contribute the following portions of the Reservoir Property toward the Lake Concession:

A. 34.39-acre area of filled lakebed known as the "Flats" described in Exhibit 1 and depicted in Exhibit 2.

B. SWD's twenty-five percent (25%) interest in Recreation Rights; so as to authorize their exclusive use by the selected Tenant during the pendency of the Lease, but such Recreation Rights shall remain owned by SWD.

C. Any necessary rights, as part of the Lease Agreement, for the successful operations of a Tenant, including access upon, over, and across the lake, shoreline, and dry lake beds; however the Districts may limit or restrict Tenant's use and operations as necessary or convenient for the Districts' Construction Project or as required for the Reservoir Purposes, and with the caveat that the water levels will fluctuate in accordance with the operational requirements of the Districts, and the rights granted will be subject to State and Federal restrictions and/or regulatory requirements on various uses.

6. DISTRIBUTION OF LAKE CONCESSION REVENUE

6.1 Net Revenue. Net Revenue generated from the Option to Lease and Lease Agreement shall be split as follows: fifty percent (50%) to County, thirty percent (30%) to SWD and twenty percent (20%) to IRWD. "**Net Revenue**" shall mean any option or other payments generated by the Option to Lease and the gross rental revenue generated by Lease Agreement (collectively, "**Gross Revenue**") minus expenses incurred by the County in amount equal to the lesser of:

(a) twenty-five percent (25%) of Gross Revenue, or

(b) actual County expenses for administration and management of the Option to Lease, the Lease Agreement and the joint properties included as part of the Option to Lease and Lease Agreement.

6.2 Expenses; Accounting. Actual County expenses shall not include any costs associated with the preparation, release and evaluation of the Joint RFP or any costs associated with the negotiation of the Option to Lease or Lease Agreement. The County shall prepare an accounting

of actual County expenses for administration and management of the Option to Lease, the Lease Agreement and the joint properties following the execution of the Option to Lease, which the County shall provide to the Districts prior to the calculation of Net Revenue. Such accounting shall be completed and administered in the County's customary method.

6.3 Actions of the Parties.

A. If the Tenant's activities are restricted by intentional and not otherwise authorized "**Actions of the Parties**" in violation of the Parties' agreements as set forth herein and in the Option to Lease and Lease Agreement, the Party/Parties causing the action shall bear the costs, or loss of income, associated with its/their activities.

B. In such an event, the Net Revenue split shall be adjusted by reducing the revenue portion of the Party/Parties causing the loss of income by a percentage that is proportionate to the loss of income. "**Actions of the Parties**" shall be defined as any intentional activity, event, or regulation implemented by a Party/Parties that restricts, prohibits, or negatively impacts the revenue stream attributed to the lake that is not associated with: (a) the operational requirements of the Districts in managing Irvine Lake for Reservoir Purposes; (b) the good faith actions of the Parties to implement regulations or policies imposed on the use of Irvine Lake by oversight governmental authorities (e.g., State and Regional Water Quality Control Boards, Division of Dam Safety, etc.).

7. **TERM.** This Agreement shall continue in effect until the termination or expiration of the Lease Agreement, or until terminated by any Party pursuant to Section 8.

8. **TERMINATION.** Each Party may terminate this Agreement and participation in the Lake Concession at any time prior to the execution of the Option to Lease. Any Party electing to terminate this Agreement prior to the execution of the Option to Lease shall provide a thirty (30) days' prior written notice to the other Parties, specifying the reason for the termination and the date upon which the termination is effective. If any Party elects to terminate due to another Party's default in the performance of responsibilities under this Agreement or another Party's material breach of any of the provisions of this Agreement, the Party in default or breach will have the right to cure the default or breach within the aforementioned thirty (30) period. If the Party in default or breach cures such default or breach within the thirty (30) day period, each Parties' election to terminate will be deemed revoked and of no further force and effect as to that particular default or breach.

9. MISCELLANEOUS PROVISIONS

9.1 Broker's Commission. Each Party represents that it has not engaged any broker, agency or finder in connection with this Agreement, and agrees to hold the other Parties harmless from any claim by any other broker, agent or finder retained by the Party making the above representation.

9.2 Indemnification; Hold Harmless.

A. The County, as the administrator of the Lake Concession, shall indemnify, defend with counsel approved in writing, save and hold harmless the Districts and each

of their elected officials, officers, directors, agents and employees from any and all claims, injuries, liabilities, actions, damages, losses or expenses, of every type and description to which they may be subjected arising out of any act or omission of, the County's employees, representatives, agents and independent contractors in connection with the procurement, implementation and administration of the Lake Concession, including in particular, any claims arising out of or related to compliance with CEQA as it relates to the Lake Concession.

B. The Districts shall indemnify, defend with counsel approved in writing, save and hold harmless the County and each of their elected and appointed officials, officers, directors, agents and employees from any and all claims, injuries, liabilities, actions, damages, losses or expenses, of every type and description to which they may be subjected arising out of any act or omission of the Districts' employees, representatives, agents and independent contractors in connection with the Districts' Construction Project, including compliance with CEQA, and any Reservoir operations or obligations associated therewith that are performed or required to be performed by the Districts.

C. The Parties' duties and obligations under this Section 9.2 shall survive termination or expiration of this Agreement.

9.3 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties. No assignment of any Party's interest in this Agreement shall be made without the written consent of the other Parties.

9.4 Entirety; Amendments. This Agreement, including any attachments incorporated herein and made applicable by reference and the recitals above, constitutes the complete and exclusive statement of the terms and conditions of this Agreement between the Parties and supersedes all prior representations, understandings, and communications regarding the Lake Concession. The invalidity in whole or in part of any term or condition of this Agreement shall not affect the validity of other terms or conditions of this Agreement. The above referenced Recitals are true and correct and are incorporated by reference herein. No alteration or amendment to the terms of this Agreement shall be valid unless made in writing and signed by the Parties; and no oral understanding or agreement not incorporated herein shall be binding on either of the Parties.

9.5 Severability. If any part of this Agreement is held, determined, or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

9.6 Notices. Any notice, demand or other communication to be given by any Party to the others hereunder must be given by personal service, Federal Express or other reputable overnight delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested, addressed to the Parties at their respective addresses as follows:

If to IRWD: Irvine Ranch Water District
15600 Sand Canyon Avenue
P.O. Box 57000
Irvine, CA 92619-7000
Attention: General Manager

If to SWD: Serrano Water District
18021 East Lincoln Street
Villa Park, CA 92861
Attn: General Manager

If to County: OC Parks
13042 Old Myford Road
Irvine, CA 92602
Attn: Director, OC Parks

With a copy to:

CEO Real Estate
400 West Civic Center Dr., 5th Floor
Santa Ana, CA 92701
Attn: Chief Real Estate Officer

Any such notice will be deemed to have been received upon delivery or, if mailed, 48 hours after deposit in the mail as aforesaid. Any Party may change the address where it desires to receive notice upon giving written notice of such request to the other Parties.

9.7 Attorney's Fees. In any action or proceeding to enforce or interpret any provision of this Agreement, or where any provision hereof is validly asserted as a defense, the Parties shall bear their own attorney's fees, costs and expenses.

9.8 Circumstances Which Excuse Performance. If any Party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure standard materials, failure of power, restrictive governmental laws, regulations or orders or governmental action or inaction (including failure, refusal or delay in issuing permits, approvals and/or authorizations which is not the result of the action or inaction of the Party claiming such delay), riots, civil unrest or insurrection, war, terrorism, bioterrorism, pandemic or epidemic, fire, earthquake, flood or other natural disaster, unusual and unforeseeable delay which results from an interruption of any public utilities (*e.g.*, electricity, gas, water, telephone) or other unusual and unforeseeable delay not within reasonable control of the Party delayed in performing work or doing acts required under the provisions of this Agreement (collectively, "**Force Majeure**"), then performance of such act shall be excused for the period of the delay; and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

9.9 Breach. The failure of any Party to comply with any of the terms and conditions of this Agreement shall be a material breach of this Agreement.

9.10 Binding Obligation. The Parties to this Agreement represent and warrant that this Agreement has been duly authorized and executed and constitutes a legally binding obligation of their respective organization or entity enforceable in accordance with its terms.

9.11 No Third-Party Beneficiaries. It is not intended by any of the provisions of this Agreement to create any third-party beneficiary hereunder. The rights and obligations set forth herein are intended exclusively for the benefit of the Parties and shall not be construed to convey any rights or remedies to any third party. The duties, obligations and responsibilities of the Parties with respect to such third parties shall remain as imposed by law.

9.12 Governing Law & Venue. 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.

9.13 Counterparts. This Agreement may be executed and delivered in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument. Facsimile signatures will be permitted.

9.14 Execution. Each Party represents and warrants that the execution, delivery and performance of this Agreement have been duly authorized by all necessary action of such Party's governing board, and the person executing this Agreement on behalf of such Party has been duly authorized and empowered to do so on behalf of such Party.

9.15 Exhibits. This Agreement includes the following Exhibits, which are attached hereto and made a part hereof.

- I. Exhibit 1 – Legal Description of the “Flats”
- II. Exhibit 2 – Depiction of the “Flats”
- III. Exhibit 3 - Legal Description of portion of “Recreation Parcel”
- IV. Exhibit 4 – Depiction of portion of “Recreation Parcel”
- V. Exhibit 5 - Legal Description of “License Parcel”
- VI. Exhibit 6 – Depiction of “License Parcel”

[Signatures appear on following pages.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the date first above written.

IRVINE RANCH WATER DISTRICT

By: _____
Paul A. Cook
General Manager

By: _____
Leslie Bonkowski
Secretary

APPROVED AS TO FORM:

By: _____
Claire Hervey Collins
District Counsel

SERRANO WATER DISTRICT

By: _____
President & Director

By: _____
Jerry Vilander
General Manager

APPROVED AS TO FORM:

By: _____
Jeremy N. Jungreis
General Counsel

COUNTY OF ORANGE,
a political subdivision of the State of California

By: _____
Thomas A. Miller, Chief Real Estate Officer
By Delegated Authority
Per Minute Order dated _____

APPROVED AS TO FORM:

Deputy County Counsel
County of Orange, California

EXHIBIT 1

**RESERVOIR PROPERTY
"LAKE AND DAM" AND
"FLATS"**

LEGAL DESCRIPTION

Those certain parcels of land situated in the unincorporated territory of the County of Orange, State of California being those portions of Blocks 69, 70, 78 and 79 of Irvine's Subdivision as shown on a map thereof filed in Book 1, Page 88 of Miscellaneous Record Maps in the Office of the County Recorder of said County, being more particularly described as follows:

"LAKE AND DAM":

Being that certain parcel of land described as Irvine Lake in that certain grant deed recorded April 3, 2002 as Instrument No. 20020279521 of Official Records in said Office of the County Recorder.

EXCEPTING THEREFROM that portion of said Irvine Lake described as follows and hereinafter referred to as the **"FLATS"**:

BEGINNING at a point on the southeasterly line of said Irvine Lake being the northeasterly terminus of that certain course described in said deed as having a bearing and distance of South 32°05'59" West 917.93 feet; thence along the southeasterly and southerly line of said Irvine Lake the following courses: South 32°05'59" West 917.93 feet; thence North 86°38'06" West 418.44 feet; thence South 11°45'04" West 194.87 feet; thence South 35°19'28" West 157.49 feet; thence North 79°30'38" West 338.67 feet; thence South 88°04'40" West 598.06 feet; thence North 79°48'42" West 361.00 feet; thence leaving said southerly line of Irvine Lake North 79°00'00" East 229.00 feet; thence North 53°00'00" East 164.00 feet; thence North 4°30'00" West 298.00 feet; thence North 9°30'00" East 130.00 feet; thence North 16°00'00" East 83.00 feet to the beginning of a tangent curve concave southeasterly and having a radius of 200.00 feet; thence northeasterly and easterly along said curve through a central angle of 78°00'00" an arc distance of 272.27 feet; thence tangent from said curve South 86°00'00" East 86.00 feet; thence East 396.00 feet thence North 16°30'00" East 154.00 feet; thence North 80°00'00" East 242.00 feet; thence North 80°30'00" East 842.85 feet; thence South 77°00'00" East 136.45 feet to the **POINT OF BEGINNING**.

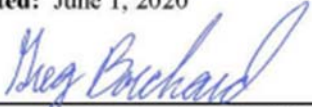
CONTAINING: 34.930 Acres, more or less.

SUBJECT TO: Covenants, conditions, reservations, restrictions, rights-of-way, and easements of record, if any.

EXHIBIT "B" attached hereto and by this reference made a part hereof.

Prepared by me or under my direction:

Dated: June 1, 2020



Gregory S. Borchard, P.L.S. 7705
License expires December 31, 2020



EXHIBIT 2

DEPICTION OF RESERVOIR PROPERTY, INCLUDING "FLATS" and "LAKE AND DAM" SUB-PARCELS

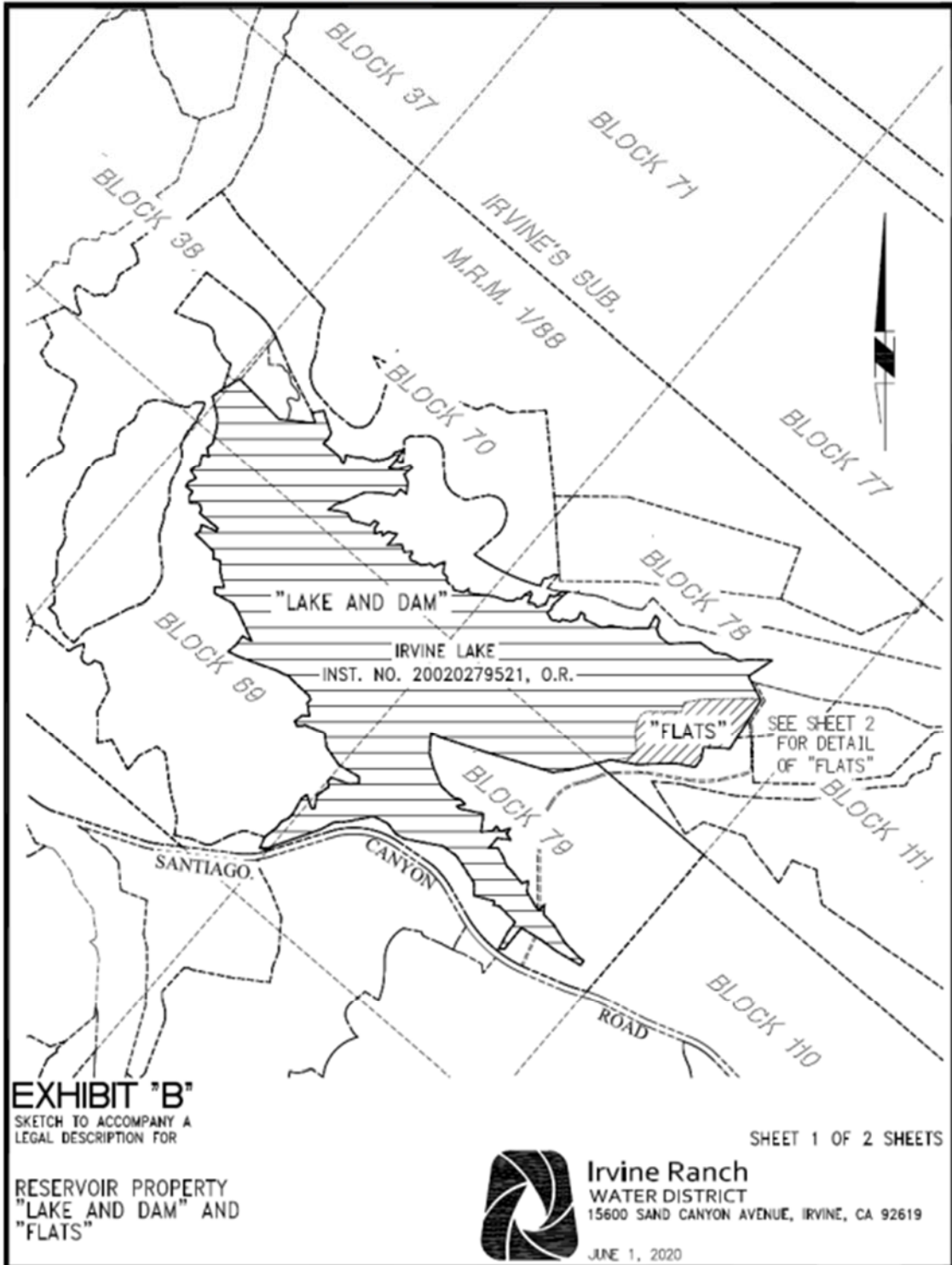


EXHIBIT 2 (cont.)

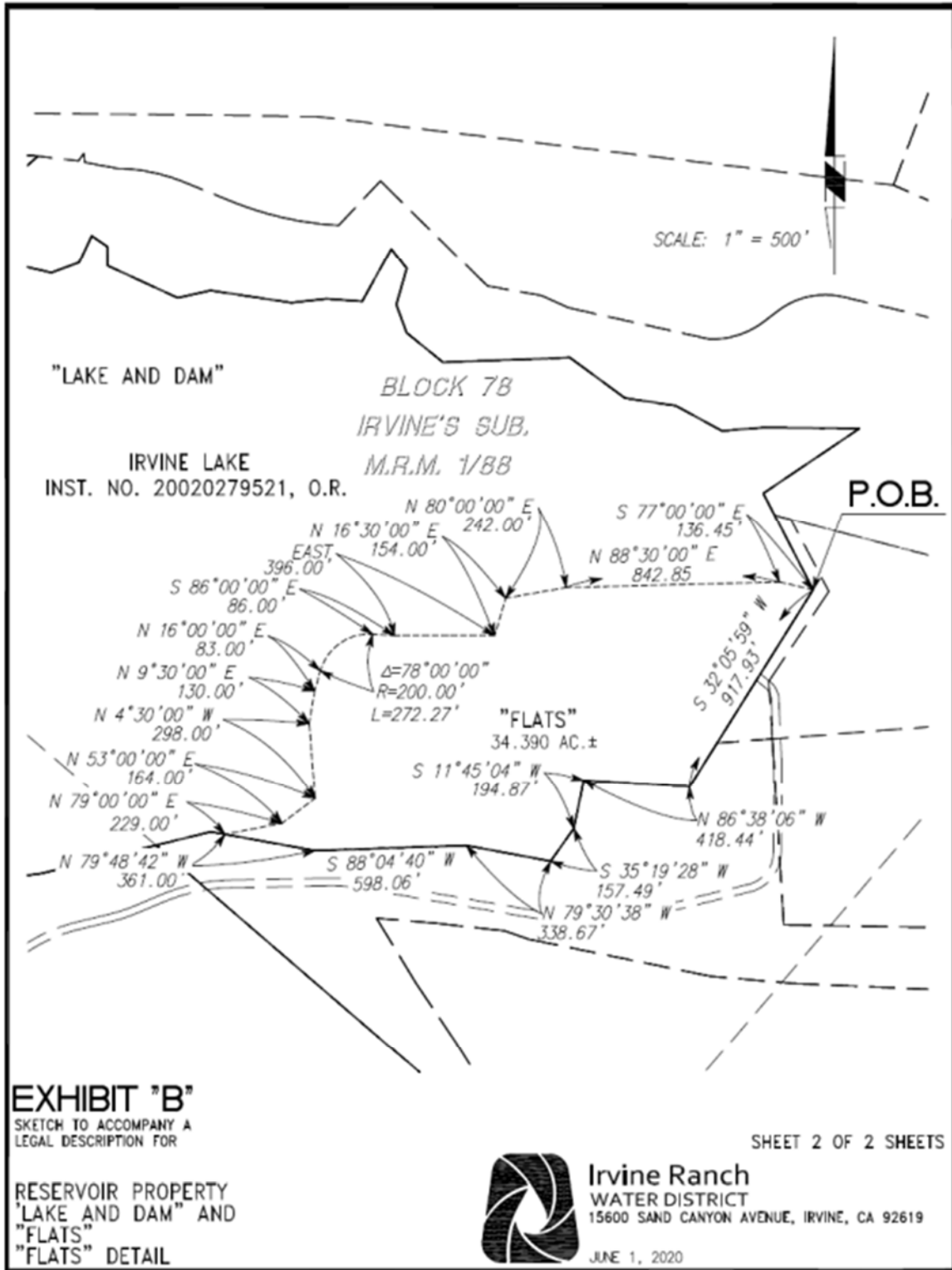


EXHIBIT 3

LEGAL DESCRIPTION OF PORTION OF "RECREATION PARCEL"

Open Space
Facility No.: OS31D
Parcel No.: 105

That certain portion of land in the Unincorporated Territory of the County of Orange, State of California, over the land described in Gift Deed to County of Orange recorded June 12, 2019 as Instrument No.2019000205217 of Official Records in the Office of the County Recorder of said County, lying northwesterly of the following described line:

COMMENCING at the northwesterly terminus of that certain line labeled "33" and being " N54°01'28"W 260.53' " as shown on Record of Survey 2001-1044 filed in Book 188, Pages 25 through 29 of Records of Survey in the Office of the County Recorder of said County said terminus also being an angle point along the northerly boundary of said Gift Deed;

Thence southeasterly along said line, coincident with said boundary, South 54°01'28" East 59.10 feet to the **TRUE POINT OF BEGINNING**;

Thence leaving said boundary South 00°18'36" West 0.51 feet;
Thence South 39°03'54" East 21.48 feet;
Thence South 35°17'53" West 9.23 feet;
Thence South 39°10'00" East 20.30 feet;
Thence South 52°42'29" East 2.15 feet;
Thence South 38°00'47" West 25.96 feet;
Thence North 60°28'59" West 40.82 feet;
Thence South 45°41'36" West 9.23 feet;
Thence South 28°24'15" West 140.35 feet;
Thence South 28°13'17" West 77.58 feet;
Thence South 09°58'44" West 4.66 feet;
Thence South 06°37'40" West 7.12 feet;
Thence South 20°03'57" West 4.74 feet;
Thence South 16°39'11" West 24.34 feet;
Thence South 28°30'38" West 19.25 feet;
Thence South 12°28'10" West 26.77 feet;
Thence South 43°08'34" West 43.24 feet to an intersection with the southerly boundary of aforementioned Gift Deed;

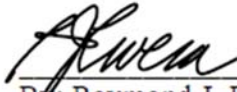
EXCEPT that portion lying within Santiago Canyon Road, 60.00 feet in width, as described in the Deed of Right of Way, recorded September 29, 1958 in Book 4430, Page 94 of Official Records in said Office of the County Recorder.

EXHIBIT 3 (cont.)

Containing 10.07 Acres, more or less.

See EXHIBIT B attached and by reference made a part.

APPROVED
Kevin Hills, County Surveyor, L.S. 6617



By: Raymond J. Rivera, L.S. 8324

Date: 05-18-2022



EXHIBIT 4

DEPICTION OF PORTION OF "RECREATION PARCEL"

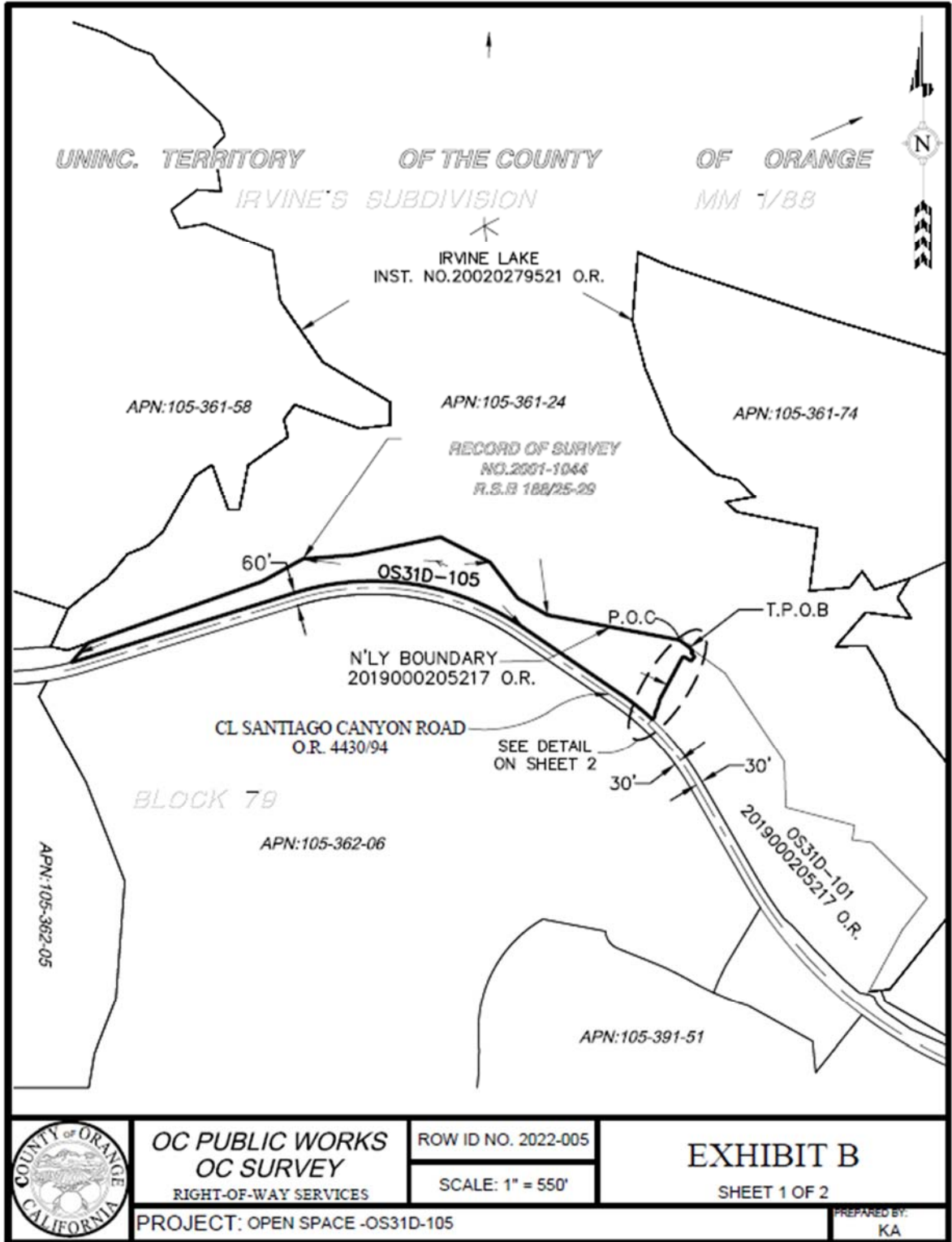
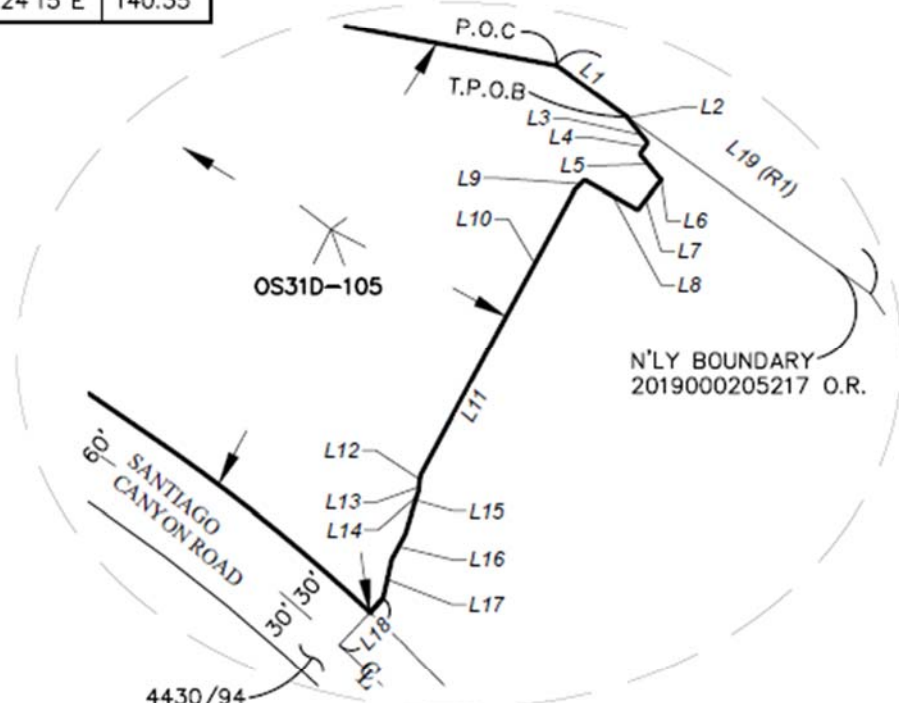


EXHIBIT 4 (cont.)

LINE TABLE		
NO.	BEARING	LENGTH
L1	N54°01'28"W	59.10'
L2	N00°18'36"E	0.51'
L3	N39°03'54"W	21.48'
L4	N35°17'53"E	9.23'
L5	N39°10'00"W	20.30'
L6	N52°42'29"W	2.15'
L7	N38°00'47"E	25.96'
L8	N60°28'59"W	40.82'
L9	N45°41'36"E	9.23'
L10	N28°24'15"E	140.35'

LINE TABLE		
NO.	BEARING	LENGTH
L11	N28°13'17"E	77.58'
L12	N09°58'44"E	4.66'
L13	N06°37'40"E	7.12'
L14	N20°03'57"E	4.74'
L15	N16°39'11"E	24.34'
L16	N28°30'38"E	19.25'
L17	N12°28'10"E	26.77'
L18	N43°08'34"E	43.24'
L19	N54°01'28"W	260.53'



REFERENCE:
 (R1)= R.S.B 188/25-29 O.R.

DETAIL "A"
SCALE: 1"=100'

	OC PUBLIC WORKS OC SURVEY RIGHT-OF-WAY SERVICES	ROW ID NO. 2022-005	EXHIBIT B
	PROJECT: OPEN SPACE- OS31D-105	SCALE: 1" = 100'	SHEET 2 OF 2 PREPARED BY: KA

EXHIBIT 5

LEGAL DESCRIPTION OF "LICENSE PARCEL"

That certain parcel of land situated in the unincorporated territory of the County of Orange, State of California, lying within Blocks 78, 79 and 111 of Irvine's Subdivision as shown on a map thereof filed in Book 1, Page 88 of Miscellaneous Record Maps in the Office of the County Recorder of said Orange County, described as follows:

COMMENCING at a point on the centerline of Santiago Canyon Road, 60.00 feet wide, as described in the right-of-way document recorded September 29, 1958 in Book 4430, Page 94 of Official Records in said Office of the County Recorder, distant northwesterly 72.49 feet, along a curve concave northeasterly having a radius of 2038.00 feet, from the southeasterly terminus of the curve described as concave northeasterly, having a radius of 2038.00 feet, a delta of 37°03'00" and an arc length of 1317.86 feet in said document, a radial line to said point bears South 25°11'00" West;

thence leaving said centerline non-tangent from said curve, North 24°44'44" East 541.52 feet to a curve concave westerly having a radius of 600.00 feet;

thence northerly 252.79 feet along said curve through a central angle of 24°08'23";

thence tangent from said curve North 0°36'21" East 1326.73 feet to a curve concave easterly having a radius of 900.00 feet; the following eleven (11) courses shall be collectively hereafter referred to as Centerline "A":

along said Centerline "A" and said curve northerly 492.78 feet through a central angle of 31°22'16";

thence tangent from said curve North 31°58'37" East 139.46 feet to a curve concave southeasterly having a radius of 635.00 feet;

thence along said curve northeasterly 493.33 feet through a central angle of 44°30'47";

thence tangent from said curve North 76°29'24" East 132.49 feet to a curve concave northerly having a radius of 685.00 feet;

thence along said curve easterly 111.06 feet through a central angle of 9°17'22";

thence tangent from said curve North 67°12'02" East 110.22 feet to a curve concave southerly having a radius of 735.00 feet;

thence along said curve easterly 279.75 feet through a central angle of 21°48'27";

thence tangent from said curve North 89°00'29" East 381.51 feet to a curve concave southerly having a radius of 785.00 feet;

thence along said curve easterly 148.22 feet through a central angle of 10°49'05";

thence tangent from said curve South 80°10'26" East 633.40 feet to a curve concave northerly having a radius of 1415.00 feet;

thence along said curve easterly 266.49 feet through a central angle of 10°47'27";

thence leaving said Centerline "A", radial from said curve South 00°57'53" East 15.00 feet to a curve concentric with and 15.00 feet southerly of said last curve and the **TRUE POINT OF BEGINNING**;

EXHIBIT 5 (cont.)

thence concentric and parallel with and 15.00 feet southerly of the hereinbefore described Centerline "A" through the following courses:

along said last concentric curve westerly 269.32 feet through a central angle of 10°47'27";
thence tangent from said curve North 80°10'26" West 633.40 feet to the beginning of a tangent curve concave southerly and having a radius of 770.00 feet;
thence along said curve westerly 145.38 feet through a central angle of 10°49'05";
thence tangent from said curve South 89°00'29" West 381.51 feet to the beginning of a tangent curve concave southerly and having a radius of 720.00 feet;
thence along said curve westerly 274.04 feet through a central angle of 21°48'27";
thence tangent from said curve South 67°12'02" West 110.22 feet to the beginning of a tangent curve concave northerly and having a radius of 700.00 feet;
thence along said curve westerly 113.49 feet through a central angle of 09°17'22";
thence tangent from said curve South 76°29'24" West 132.49 feet to the beginning of a tangent curve concave southeasterly and having a radius of 620.00 feet;
thence along said curve southwesterly 481.68 feet through a central angle of 44°30'47";
thence tangent from said curve South 31°58'37" West 139.46 feet to the beginning of a tangent curve concave southeasterly and having a radius of 885.00 feet;
thence along said curve southwesterly 50.54 feet through a central angle of 03°16'20";

thence leaving said concentric and parallel courses, non-tangent from said curve South 65°50'09" West 636.67 feet to the northeasterly terminus of the that certain course described as "North 72°01'50" East 170.12 feet" in the general southerly line of the Irvine Lake boundary in the Grant Deed recorded April 3, 2002 as Instrument No. 20020279521 of Official Records in said Office of the County Recorder;

thence along said general southerly line through the following courses:

South 72°01'50" West 170.12 feet;
thence North 34°18'01" West 103.37 feet;
thence South 37°49'22" West 95.26 feet;
thence South 85°06'27" West 186.09 feet;
thence North 07°26'13" East 289.50 feet;
thence North 78°12'09" West 380.79 feet;
thence North 48°34'28" West 68.39 feet;
thence North 79°22'15" East 137.33 feet;
thence North 44°25'50" West 111.71 feet;
thence North 75°20'01" West 109.84 feet;
thence North 46°59'17" West 266.83 feet;
thence North 22°37'09" West 330.80 feet;
thence North 14°59'24" West 228.93 feet;
thence North 04°45'27" East 315.18 feet;
thence South 66°09'29" East 158.14 feet;
thence South 71°44'01" East 746.25 feet;
thence South 73°05'37" East 1118.62 feet;
thence North 82°17'27" East 253.02 feet;
thence North 76°13'44" East 686.51 feet;
thence South 79°48'42" East 417.87 feet;

EXHIBIT 5 (cont.)

thence North 88°04'40" East 598.06 feet;
thence South 79°30'38" East 338.67 feet;
thence North 35°19'28" East 157.49 feet;
thence North 11°45'04" East 194.87 feet;
thence South 86°38'06" East 418.44 feet;
thence North 32°05'59" East 688.41 feet;

thence leaving said general southerly line South 06°38'23" East 450.98 feet;
thence North 87°58'26" East 522.86 feet;
thence South 00°07'45" West 109.55 feet;
thence South 06°17'39" West 175.26 feet;
thence South 20°47'17" West 151.94 feet;
thence South 77°08'24" West 401.41 feet;
thence South 06°38'23" East 421.39 feet to the general southwesterly line of Parcel L-1 as described in the Gift Deed recorded July 1, 2010 as Instrument No. 2010000312153 of Official Records and by reference to Certificate of Compliance No. 2009-01 recorded February 16, 2010 as Instrument No. 2010000072885 of Official Records, both in said Office of the County Recorder;

thence along last said general southwesterly line of said Parcel L-1 through following courses:

North 87°29'49" West 120.64 feet;
thence North 85°06'01" West 320.24 feet;
thence North 78°31'41" West 484.33 feet to a line which bears South 00°57'53" East and passes through the TRUE POINT OF BEGINNING;

thence leaving said general southwesterly line of Parcel L-1 North 00°57'53" West 118.87 feet to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM (Access Road) a strip of land 30.00 feet wide, the centerline of which is described as follows:

COMMENCING at a point on the centerline of Santiago Canyon Road, 60.00 feet wide, as described in the right-of-way document recorded September 29, 1958 in Book 4430, Page 94 of Official Records in said Office of the County Recorder, distant northwesterly 72.49 feet, along a curve concave northeasterly having a radius of 2038.00 feet, from the southeasterly terminus of the curve described as concave northeasterly, having a radius of 2038.00 feet, a delta of 37°03'00" and an arc length of 1317.86 feet in said document, a radial line to said point bears South 25°11'00" West;

thence leaving said centerline non-tangent from said curve, North 24°44'44" East 541.52 feet to a curve concave westerly having a radius of 600.00 feet;

thence northerly 252.79 feet along said curve through a central angle of 24°08'23";

thence tangent from said curve North 0°36'21" East 1326.73 feet to a curve concave easterly having a radius of 900.00 feet;

thence northerly 492.78 feet along said curve through a central angle of 31°22'16";

thence tangent from said curve North 31°58'37" East 139.46 feet to a curve concave southeasterly having a radius of 635.00 feet;

thence northeasterly 493.33 feet along said curve through a central angle of 44°30'47";

EXHIBIT 5 (cont.)

thence tangent from said curve North 76°29'24" East 132.49 feet to a curve concave northerly having a radius of 685.00 feet;
thence easterly 111.06 feet along said curve through a central angle of 9°17'22";
thence tangent from said curve North 67°12'02" East 110.22 feet to a curve concave southerly having a radius of 735.00 feet;
thence easterly 279.75 feet along said curve through a central angle of 21°48'27";
thence tangent from said curve North 89°00'29" East 381.51 feet to a curve concave southerly having a radius of 785.00 feet;
thence easterly 148.22 feet along said curve through a central angle of 10°49'05";
thence tangent from said curve South 80°10'26" East 633.40 feet to a curve concave northerly having a radius of 1415.00 feet;
thence easterly 577.88 feet along said curve through a central angle of 23°23'58";
thence tangent from said curve North 76°25'36" East 327.88 feet to a curve concave northwesterly having a radius of 145.00 feet;
thence northeasterly and northerly 192.62 feet along said curve through a central angle of 76°06'44";
thence tangent from said curve North 0°18'52" East 351.69 feet;
thence North 2°19'12" West 253.59 feet to a curve concave southwesterly having a radius of 80.00 feet;
thence northwesterly 66.57 feet along said curve through a central angle of 47°40'48";
thence North 50°00'00" West 48.52 feet to the general southerly line of the Irvine Lake boundary described in the Grant Deed recorded April 3, 2002 as Instrument No. 20020279521 of Official Records in said Office of the County Recorder;

CONTAINING: 73.9 Acres, more or less

Unless otherwise described, all distances shown hereon are in ground. To obtain grid distances, multiply the distances herein by 0.99994914.

EXHIBIT "B" attached and by this reference made a part hereof.



Kurt R. Troxell, L.S. 7854

10/28/2014
Date



RBF Consulting
14725 Alton Parkway
Irvine, California 92618
Project No. 140077

EXHIBIT 6

DEPICTION OF "LICENSE PARCEL"

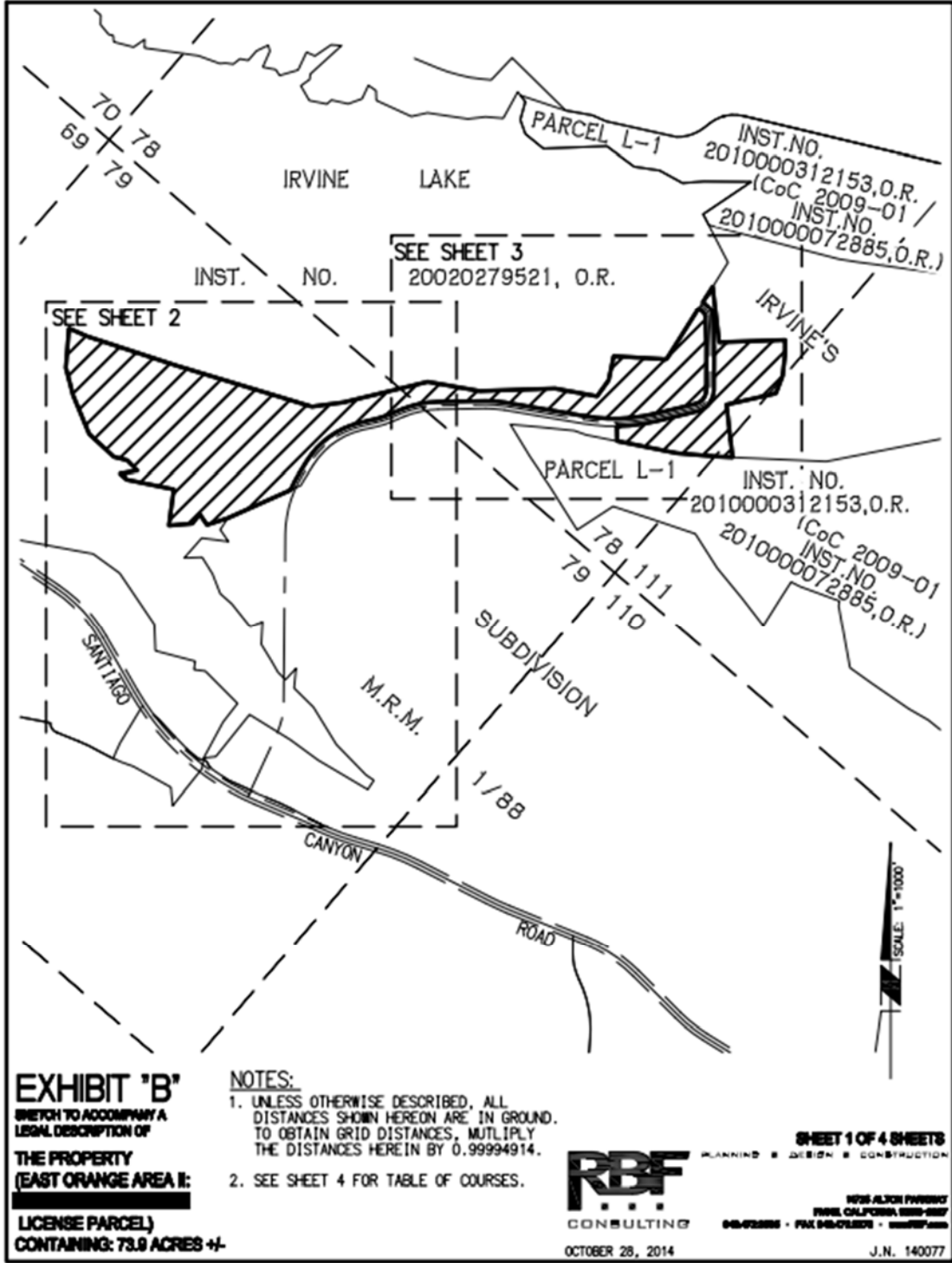


EXHIBIT 6 (cont.)

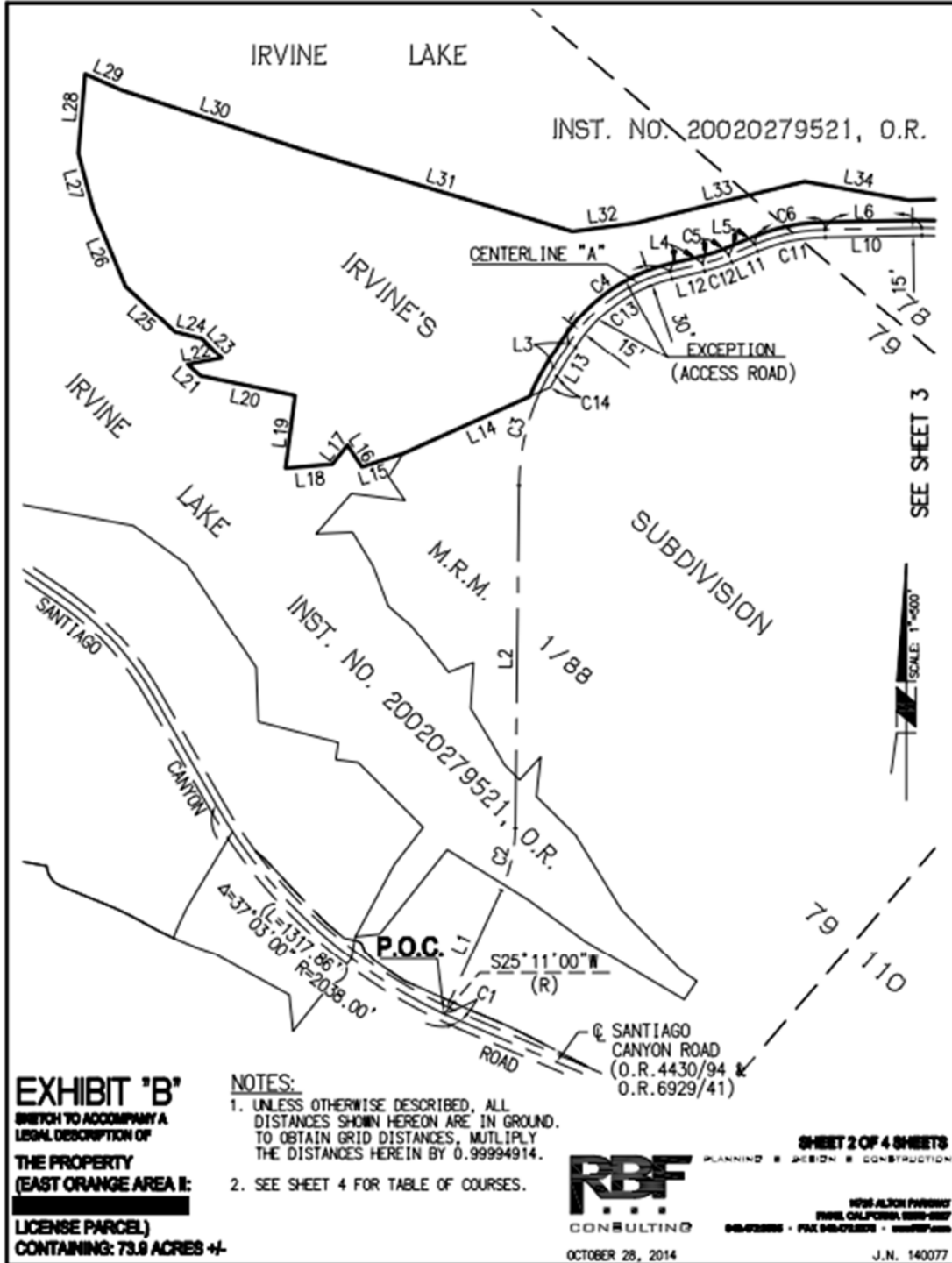


EXHIBIT "B"
 SHEET TO ACCOMPANY A
 LEGAL DESCRIPTION OF
 THE PROPERTY
 (EAST ORANGE AREA II:
 LICENSE PARCEL)
 CONTAINING: 73.9 ACRES +/-

- NOTES:**
1. UNLESS OTHERWISE DESCRIBED, ALL DISTANCES SHOWN HEREON ARE IN GROUND. TO OBTAIN GRID DISTANCES, MULTIPLY THE DISTANCES HEREIN BY 0.99994914.
 2. SEE SHEET 4 FOR TABLE OF COURSES.

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EXHIBIT 6 (cont.)

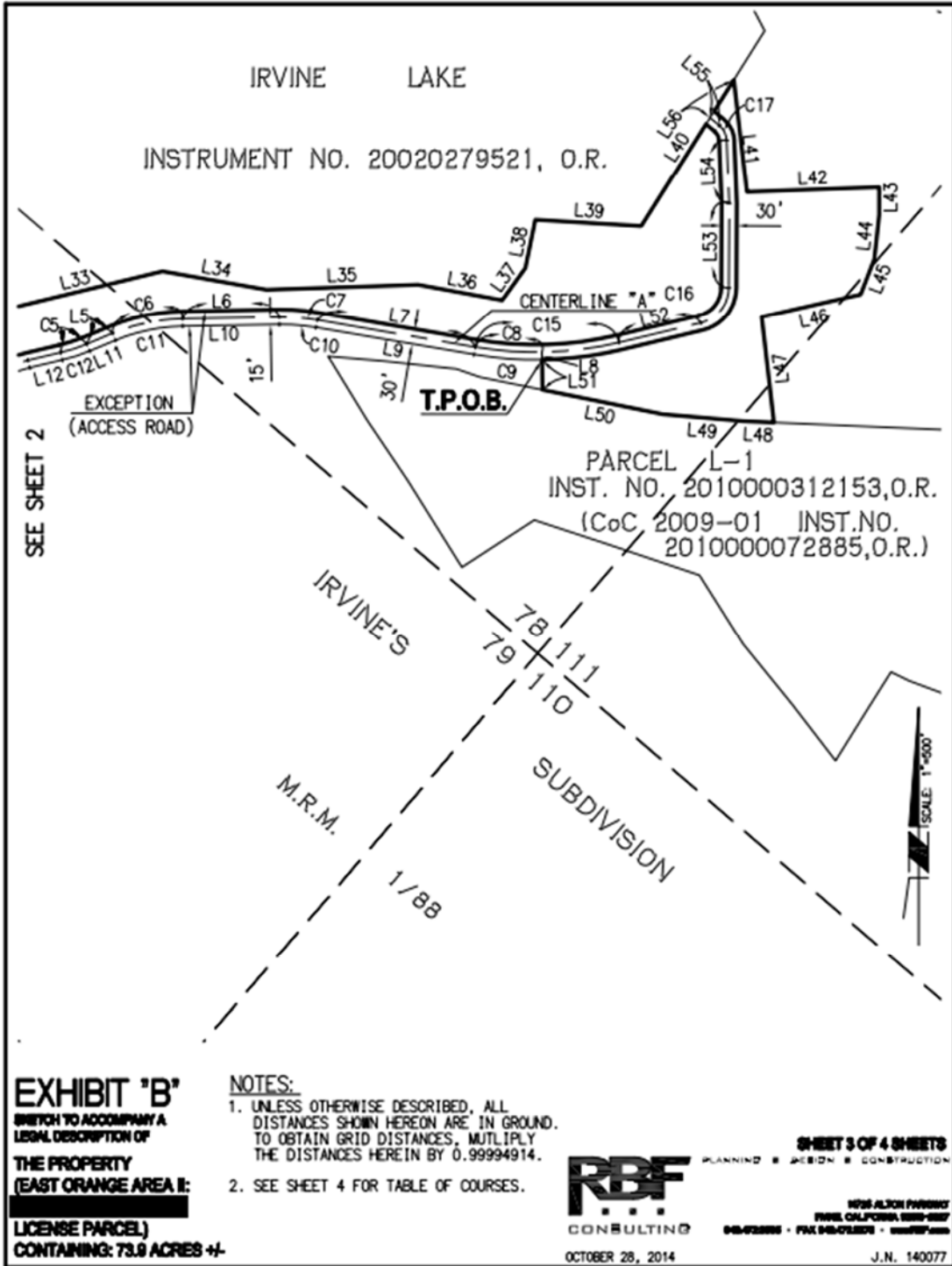


EXHIBIT "B"
SWITCH TO ACCOMPANY A
LEGAL DESCRIPTION OF
THE PROPERTY
(EAST ORANGE AREA II:
LICENSE PARCEL)
CONTAINING: 73.8 ACRES +/-

SHEET 3 OF 4 SHEETS
OCTOBER 28, 2014

EXHIBIT 6 (cont.)

LINE TABLE		
NO.	BEARING	LENGTH
L1	N24°44'44"E	541.52'
L2	N00°36'21"E	1326.73'
L3	N31°58'37"E	139.46'
L4	N76°29'24"E	132.49'
L5	N67°12'02"E	110.22'
L6	N89°00'29"E	381.51'
L7	S80°10'26"E	633.40'
L8	S00°57'53"E	15.00'
L9	N80°10'26"W	633.40'
L10	S89°00'29"W	381.51'
L11	S67°12'02"W	110.22'
L12	S76°29'24"W	132.49'
L13	S31°58'37"W	139.46'
L14	S65°50'09"W	636.67'
L15	S72°01'50"W	170.12'
L16	N34°18'01"W	103.37'
L17	S37°49'22"W	95.26'
L18	S85°06'27"W	186.09'
L19	N07°26'13"E	289.50'
L20	N78°12'09"W	380.79'
L21	N48°34'28"W	68.39'
L22	N79°22'15"E	137.33'
L23	N44°25'50"W	111.71'
L24	N75°20'01"W	109.84'
L25	N46°59'17"W	266.83'
L26	N22°37'09"W	330.80'
L27	N14°59'24"W	228.93'
L28	N04°45'27"E	315.18'
L29	S66°09'29"E	158.14'
L30	S71°44'01"E	746.25'
L31	S73°05'37"E	1118.62'
L32	N82°17'27"E	253.02'
L33	N76°13'44"E	686.51'
L34	S79°48'42"E	417.87'
L35	N88°04'40"E	598.06'
L36	S79°30'38"E	338.67'
L37	N35°19'28"E	157.49'
L38	N11°45'04"E	194.87'
L39	S86°38'06"E	418.44'
L40	N32°05'59"E	688.41'

LINE TABLE		
NO.	BEARING	LENGTH
L41	S06°38'23"E	450.98'
L42	N87°58'26"E	522.86'
L43	S00°07'45"W	109.55'
L44	S06°17'39"W	175.26'
L45	S20°47'17"W	151.94'
L46	S77°08'24"W	401.41'
L47	S06°38'23"E	421.39'
L48	N87°29'49"W	120.64'
L49	N85°06'01"W	320.24'
L50	N78°31'41"W	484.33'
L51	N00°57'53"W	118.87'
L52	N76°25'36"E	327.88'
L53	N00°18'52"E	351.69'
L54	N02°19'12"W	253.59'
L55	N50°00'00"W	48.52'
L56	N32°05'59"E	176.65'

CURVE TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	02°02'17"	2038.00'	72.49'
C2	24°08'23"	600.00'	252.79'
C3	31°22'16"	900.00'	492.78'
C4	44°30'47"	635.00'	493.33'
C5	09°17'22"	685.00'	111.06'
C6	21°48'27"	735.00'	279.75'
C7	10°49'05"	785.00'	148.22'
C8	10°47'27"	1415.00'	266.49'
C9	10°47'27"	1430.00'	269.32'
C10	10°49'05"	770.00'	145.38'
C11	21°48'27"	720.00'	274.04'
C12	09°17'22"	700.00'	113.49'
C13	44°30'47"	620.00'	481.68'
C14	03°16'20"	885.00'	50.54'
C15	23°23'58"	1415.00'	577.88'
C16	76°06'44"	145.00'	192.62'
C17	47°40'48"	80.00'	66.57'

EXHIBIT "B"
 SKETCH TO ACCOMPANY A
 LEGAL DESCRIPTION OF
 THE PROPERTY
 (EAST ORANGE AREA II:
 LICENSE PARCEL)


NOTES:
 1. UNLESS OTHERWISE DESCRIBED, ALL
 DISTANCES SHOWN HEREON ARE IN GROUND.
 TO OBTAIN GRID DISTANCES, MULTIPLY
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SHEET 4 OF 4 SHEETS
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OCTOBER 28, 2014

J.N. 140077

February 13, 2023
Prepared by: A. McNulty
Submitted by: F. Sanchez / P. Weghorst
Approved by: Paul A. Cook 

ACTION CALENDAR

ADVANCED METERING INFRASTRUCTURE FEASIBILITY STUDY AND BUSINESS PLAN

SUMMARY:

Advanced Metering Infrastructure (AMI) integrates smart meters, communications networks, and data management platforms into a system that produces more frequent and accurate water usage data. AMI can facilitate improved billing, leak detection, and better overall water management. In 2022, staff formed an interdisciplinary team to evaluate AMI products, service providers, and potential benefits of implementing AMI at IRWD. Consistent with IRWD's long-standing commitment to water efficiency and proactive leak detection, the team determined the need to develop a Feasibility Study and Business Plan for implementing AMI at IRWD.

At the Board meeting, staff will present a summary of the next steps related to retaining a consultant to prepare the study and plan. To facilitate the consultant's work and to provide for staff time, staff recommends that the Board authorize the addition of AMI Implementation for the Domestic and Recycled Systems, Projects 12514 and 12515, in the combined amount of \$180,000 to the FY 2022-23 Capital Budget.

BACKGROUND:

AMI systems integrate smart meters, two-way communication networks, and data management platforms. The technology allows for frequent collection of water usage data that is then utilized to improve customer billing, leak detection, and overall water resource management. AMI automates functions that would otherwise have to be handled manually or that are not possible without smart meters. Other benefits of the technology include the ability to remotely measure water use, start or stop service, detect meter tampering, and communicate usage with customers through online dashboards and custom alerts.

2010 AMI Evaluation and Current Uses:

In 2010 IRWD evaluated AMI technology and made the decision to not deploy the technology (at that time) given high implementation costs, numerous complexities, and the evolving nature of the technology. Since 2010, staff has employed various devices to temporarily provide high-frequency meter reads for a small and targeted segment of customers. These devices have become an important tool for providing customer assistance and water efficiency program evaluations.

IRWD currently utilizes a "Flume" device to provide data needed for program evaluations and helping customers troubleshoot high water use. Staff has also tested other technologies, ranging from simple data loggers to cellular- and photography-based devices. These technologies have helped staff identify customer side leaks, wasteful water uses, and malfunctioning meters. None

of these devices provide the full functionality of an AMI system. Since 2010, AMI technology has improved substantially and it has been successfully implemented at many water utilities, prompting staff to re-evaluate AMI based on the status of the industry.

Current AMI Evaluation:

Since February 2022, an interdisciplinary team of staff has been working to re-evaluate the implementation of AMI technology at IRWD. The team reviewed a total of nine AMI service providers, conducted numerous reference checks, and participated in AMI-related committees to learn from other water agencies' experience with AMI. The team's work provided a thorough understanding of the various types of existing AMI systems and components. Given this understanding, the team identified the need for professional assistance in preparing a Feasibility Study for implementing AMI at IRWD and in preparing a corresponding Business Plan. The work to be provided by the consultant would include a robust cost-benefit analysis and would address implementation strategies.

Feasibility Study and Business Plan:

On January 13, 2023, staff issued a Request for Proposals (RFP) for the preparation of an AMI Feasibility Study and Business Plan. The Feasibility Study will identify long-term needs for development of an AMI program, include a cost-benefit and return on investment analysis of various implementation scenarios and will assess the impacts of AMI on IRWD processes, personnel, and technology. The Business Plan will integrate the needs assessment, cost-benefit analysis, impacts assessment, and will make recommendations as well as justifications for implementing AMI at IRWD. The Business Plan will also identify the extent to which IRWD might be able to leverage grant funding and/or infrastructure owned by other entities. The findings of the Feasibility Study and Business Plan will be integrated with other District efforts related to water loss control, distribution system monitoring and meter management.

Staff expects to issue a Notice of Award (NOA) to a consultant by the end of February 2023. A Professional Services Agreement with the selected consultant is expected to be executed within staff authority. Attached as Exhibit "A" is a presentation on the scope of work for the consultant's preparation of an AMI related Feasibility Study and Business Plan. The consultant's work is expected to be complete within six months of the NOA.

FISCAL IMPACTS:

Staff requests \$180,000 in funds for consultant work and staff time be added to the Fiscal Year 2022-23 Capital Budget for projects 12514 and 12515, AMI Implementation to the Domestic and Recycled Water Systems.

ENVIRONMENTAL COMPLIANCE:

The preparation of an AMI related Feasibility Study and Business Plan is not a project as defined in the California Environmental Quality Act as authorized under the California Code of Regulations, Title 14, Chapter 3, and Section 15378.

COMMITTEE STATUS:

This item was not reviewed by a Committee.

RECOMMENDATION:

That the Board authorize the addition of AMI Implementation for the Domestic and Recycled Systems, Projects 12514 and 12515, in the combined amount of \$180,000 to the FY 2022-23 Capital Budget.

LIST OF EXHIBITS:

Exhibit "A" – Presentation on Scope of Work for the Preparation of AMI Feasibility Study and Business Plan

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AMI FEASIBILITY STUDY & BUSINESS DEVELOPMENT PLAN

BOARD OF DIRECTORS MEETING

FEBRUARY 13, 2023

Exhibit "A"

AGENDA

- Advanced metering infrastructure
- Benefits of AMI
- Interdisciplinary team
- Request for proposals
- Schedule and Next steps

WHAT IS ADVANCED METERING INFRASTRUCTURE?

AMI is a system of smart meters, communications networks and data management platforms that provides the ability to collect frequent and accurate water usage data.

Meter data



Communication



Software



SYSTEM INTEGRATION

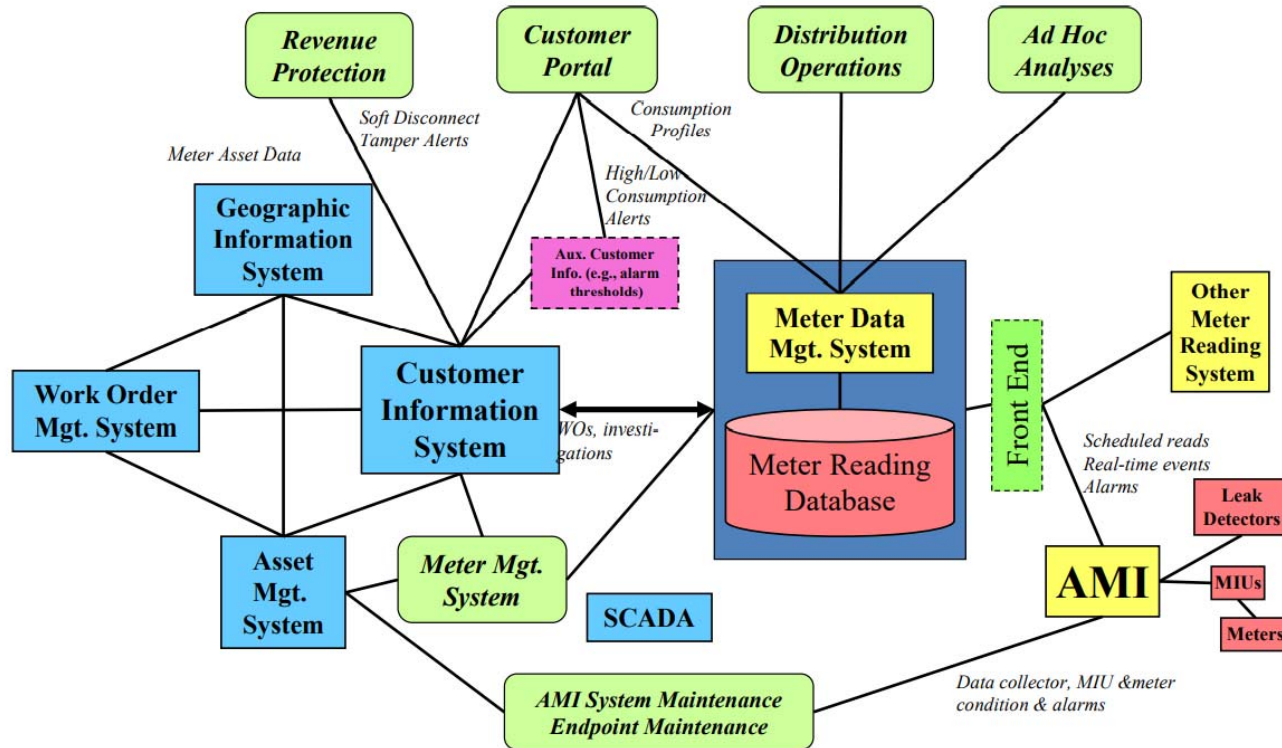


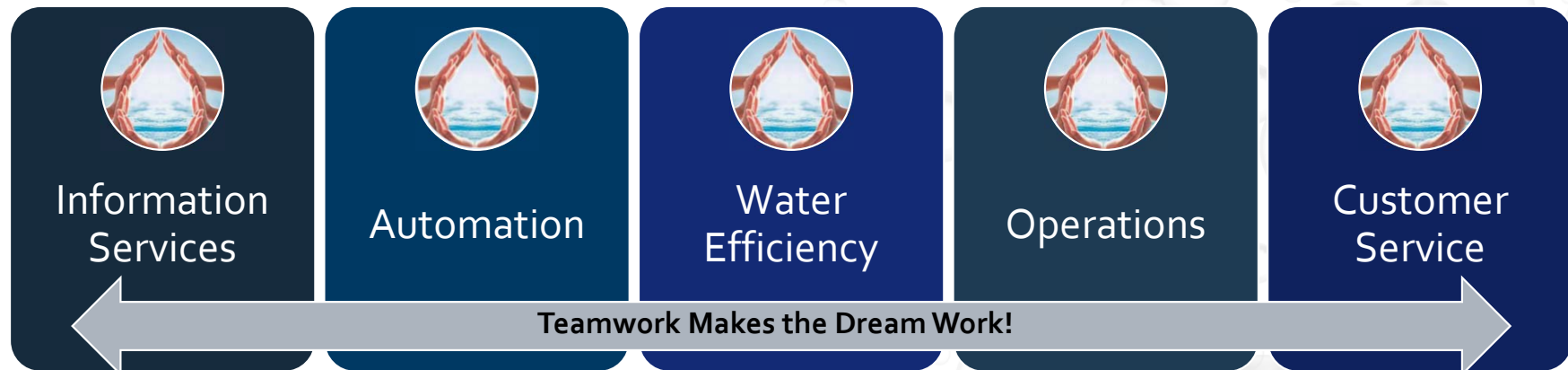
Figure 2.20. Example IT architecture for AMI and Meter Data Management System (MDMS)

BENEFITS

- Improved billing
- Leak detection
- Water resource management
- Remotely start/stop service
- Detect meter tampering
- Communicate usage with customer
- Operational benefits

INTERDISCIPLINARY AMI TEAM

- Reviewed several AMI products and service providers
- Interviewed agencies that have implemented AMI
- Developed recommendations for next steps



REQUEST FOR PROPOSALS



FEASIBILITY STUDY / NEEDS ASSESSMENT

- Equipment and systems
- Short- and long-term
- Integration with existing applications
- Ancillary technologies



BUSINESS CASE

- Cost-benefit analysis
- Identify funding sources
- Implementation scenarios



IMPACT ASSESSMENT

- Operations
- Customers
- Personnel
- Data management
- Business processes
- Policies



IMPLEMENTATION ROADMAP

- Recommendation
- Next steps

SCHEDULE AND NEXT STEPS

- AMI Feasibility Study and Business Plan
 - Request for Proposals issued - January 13
 - Award and agreement execution end of February
 - Project timeline ~3-6 months
- Potential subsequent phases
 - Procurement ~2023/24
 - Implementation ~2024 begin

RECOMMENDATION

- That the Board authorize the addition of AMI Implementation for the Domestic and Recycled Systems, Projects 12514 and 12515, in the combined amount of \$180,000 to the FY 2022-23 Capital Budget

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