

DEPARTMENT OF THE ARMY
EASEMENT
CITY OF CORONA WATER RECLAMATION PLANT
LOCATED ON
PRADO DAM FLOOD CONTROL BASIN
RIVERSIDE COUNTY, CALIFORNIA

THE SECRETARY OF THE ARMY, hereinafter referred to as the Secretary, under and by virtue the authority vested in the Secretary by Title 10, United States Code, Section 2668, having found that the granting of this easement will be in the public interest and will not substantially injure the interests of the United States, hereby grants the **CITY OF CORONA**, hereinafter referred to as the “Grantee,” an easement for the operation, maintenance, and repair of the City of Corona Reclamation Plant #1 within the Prado Dam Flood Control Basin, hereinafter referred to as the facilities, over, across, in and upon lands of the United States as identified in Exhibits “A” and “B”, hereinafter referred to as the premises, and which are attached hereto and made a part of.

THIS EASEMENT is granted subject to the following conditions.

1. TERM

This easement is hereby granted for a term of 35 years, beginning September 28, 2022, and ending September 27, 2057 so long as the Grantee remains in compliance with any or all of the conditions of this easement.

2. CONSIDERATION

In lieu of cash consideration, the Grantee will provide in-kind consideration by completing certain operations and maintenance projects on the premises with the total cost of such projects being approximately equivalent to the sum of **ELEVEN MILLION FOUR-HUNDRED AND FIFTY-THREE THOUSAND DOLLARS** (\$11,453,000), which is the mutually agreed upon value of the easement. The consideration will be provided over a period of 7 (seven) years, with projects totaling approximately **TWO MILLION** (\$2,000,000) completed per year in (Years 1-4) and, projects totaling approximately **ONE MILLION** (\$1,000,000) per year in (Years 5-7). Scope of work for the operations and maintenance projects to be completed each year.

3. NOTICES

All notices and correspondence to be given pursuant to this easement shall be addressed, if to the Grantee, to the City of Corona, Department of Water and Power, 755 Public Safety Way, Corona, California 92880, ATTN: Director of Utilities; and if to the United States, to the District Engineer, Attention: Chief of Real Estate Division, U.S. Army Corps of Engineers, Los Angeles District, 915 Wilshire Blvd, Suite 1109, Los Angeles, California 90017; or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, or wrapper, addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any references herein to “Secretary”, “District Engineer”, “Installation Commander”, or “said Officer” shall include their duly authorized representatives. Any reference to “Grantee” shall include any duly authorized representatives.

5. SUPERVISION BY THE DISTRICT ENGINEER

The construction, operation, maintenance, repair or replacement of said facilities, including culverts and other drainage facilities, shall be performed at no cost or expense to the United States and subject to the approval of the District Engineer, hereinafter referred to as said Officer. Upon the completion of any of the above activities, the Grantee shall immediately restore the premises to the satisfaction of said Officer. The use and occupation of the premises for the purposes herein granted shall be subject to such rules and regulations as said Officer prescribes in writing from time to time.

6. APPLICABLE LAWS AND REGULATIONS

The Grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances, and regulations wherein the premises are located.

7. CONDITION OF PREMISES

The Grantee acknowledges that it has inspected the premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever and without any obligation on the part of the United States.

8. INSPECTION AND REPAIRS

The Grantee shall inspect the facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said Officer to repair any such defects.

9. TRANSFERS AND ASSIGNMENTS

Without prior written approval by said District Engineer, the Grantee shall neither transfer nor assign this easement or any part thereof nor grant any interest, privilege, or license whatsoever in connection with this easement. The provisions and conditions of this easement shall extend to and be binding upon and shall inure to the benefit of the representatives, successors and assigns of the Grantee.

10. PROTECTION OF GOVERNMENT PROPERTY

The Grantee shall be responsible for any damage that may be caused to the property of the United States by the activities of the Grantee under this easement and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the Grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

11. RIGHT TO ENTER AND FLOOD

The right is reserved to the United States, its officers, agents and employees to enter upon the premises at any time and for any purposes necessary or convenient in connection with government purposes; to make inspections; to remove timber or other materials, except property of the Grantee; and to flood the Premises. In as much as the use of the premises involves the creation and maintenance of ponds, any manipulation of the level of such ponds by the Secretary shall be for the government purposes of flood damage reduction or to operate the dam in connection with government purposes and the Grantee shall have no claims for damages on account thereof against the United States or any officer, agent or employee thereof.

12. INDEMNITY

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Grantee, or for damages to the property or injuries to the person of the Grantee's officers, agents or employees or others who may be on the Premises at their invitation or the invitation of any one of them, and the Grantee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

13. RESTORATION

On or before the expiration or termination of this easement, the Grantee shall, without expense to the United States, and within such time as said officer may indicate, remove said facilities and restore the premises to the satisfaction of said officer. In the event the Grantee shall fail to remove said facilities and restore the premises, the United States shall have the option to take over said facilities without compensation, or to remove said facilities and perform the restoration at the expense of the Grantee, and the Grantee shall have no claim for damages against the United States or its officers or agents for such action.

14. NON-DISCRIMINATION

The Grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion in the conduct of operations on the premises.

15. SUBJECT TO EASEMENTS

This easement is subject to all existing easements, or those subsequently granted as well as established access routes for roadways and utilities located, or to be located, on the Premises, provided that the proposed grant of any new easement or route will be coordinated with the Grantee, and easements will not be granted which will, in the opinion of the District Engineer, interfere with the use of the Premises by the Grantee.

16. TERMINATION

This easement may be terminated by the Secretary upon 90 days written notice to the Grantee if the Secretary shall determine that the easement hereby granted interferes with the use or disposal of said land by the United States, or it may be revoked by the Secretary for failure of the Grantee to comply with any or all of the conditions of this easement, or for non-use for a period of two (2) years, or for abandonment.

17. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties hereto shall protect the premises against pollution of its air, ground, and water. The Grantee shall promptly comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is strictly prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency or any Federal, state, interstate or local governmental agency are hereby made a condition of this easement. The Grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The use of any pesticides or herbicides within the premises shall be in conformance with all applicable Federal, state, and local laws and regulations. The Grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

c. The Grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the Grantee's activities, the Grantee shall be liable to restore the damaged resources to the extent caused by Grantee.

18. HISTORIC PRESERVATION

The Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify said Officer and protect the site and material from further disturbance until said Officer gives clearance to proceed.

19. SOIL AND WATER CONSERVATION

The Grantee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the Grantee during the term of this easement, and the Grantee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the premises resulting from the activities of the Grantee shall be corrected by the Grantee as directed by said officer.

20. RELOCATION OF FACILITIES

In the event all or any portion of the premises occupied by the said facilities shall be needed by the United States, or in the event the existence of said facilities is determined to be detrimental to governmental activities, the Grantee shall from time to time, upon notice to do so, and as often as so notified, remove said facilities to such other location on the premises as may be designated by said officer. In the event said facilities shall not be removed or relocated within ninety (90) days after such notice, The United States may cause such relocation at the sole expense of the Grantee.

21. DISCLAIMER

This easement is effective only insofar as the rights of the United States in the Premises are concerned. The Grantee shall obtain any permit or license which may be required by Federal, state, or local statute in connection with the use of the Premises. It is understood that the granting of this easement does not preclude the necessity of obtaining a Department of the Army permit for activities which involve the discharge of dredge or fill material or the placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403), and Section 404 of the Clean Water Act (33 USC 1344).

22. EXECUTIVE ORDER 13658

(1) The Real Estate Contracting Officer (RECO) has determined the Executive Order 13658 (EO) is applicable to this agreement.

- (a) Any reference in this section to "Grantee" or "contractor" shall mean the Grantee and any reference to "*agreement*" shall refer to the Easement.

The parties expressly stipulate this agreement is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

- (b) Minimum Wages. (1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this agreement by the Grantee or any contractor, regardless of any contractual relationship which may be alleged to exist between the Grantee and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.
- (c) Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Grantee under this or any other Federal agreement with the same prime Grantee, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.
- (d) Agreement Suspension/ Agreement Termination/ Agreement Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the agreement clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.
- (e) The Grantee may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.
- (f) Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker, nor shall a

lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.

- (g) Payroll Records. (1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:
- (i) Name, address, and social security number.
 - (ii) The worker's occupation(s) or classification(s)
 - (iii) The rate or rates of wages paid.
 - (iv) The number of daily and weekly hours worked by each worker.
 - (v) Any deductions made; and
 - (vi) Total wages paid.
- (h) The Grantee (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The Grantee and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.
- (i) Certification of Eligibility. (1) By entering into this agreement, the Grantee (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).
- (j) Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

- (k) Antiretaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10, or has testified or is about to testify in any such proceeding.
- (l) Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this agreement shall not be subject to the general disputes clause of the agreement. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this agreement clause include disputes between the Grantee (or any of its contractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.
- (m) Notice. The Grantee must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the Grantee may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the Grantee must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.
- (2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015, and December 31, 2015 shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a) (ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor website). The applicable published minimum wage is incorporated by reference into this contract.

(3) The Grantee shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.

(4) The Grantee and any contractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor, and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered agreement whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the Grantee must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

(6) The Grantee shall also make available a copy of the agreement, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 CFR part 10 and this agreement, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(7) The Grantee shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(8) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

(9) No part of this agreement shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(10) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

- (11) The employer must inform the tipped employee in advance of the use of the tip credit;
- (12) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit.
- (13) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and
- (14) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

THIS EASEMENT is not subject to Title 10, United States Code, Section 2662, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army, this _____ day of _____, 2022.

Real Estate Contracting Officer
Real Estate Division

THIS EASEMENT is also executed by the Grantee this _____ day of _____, 2022.

City of Corona, Department of Water and Power

By: _____