

**COOPERATIVE AGREEMENT**

This COOPERATIVE AGREEMENT (“**AGREEMENT**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between Orange County Flood Control District, a body corporate and politic, hereinafter referred to as “**DISTRICT**,” and San Bernardino County, a body corporate and politic in the State of California, hereinafter referred to as the “**COUNTY**,” without regard to number or gender and sometimes referred to herein individually as “**Party**,” or collectively as “**Parties**.”

RECITALS

This AGREEMENT is made with respect to the following facts:

A. Pursuant to the Water Resources Development Act of 1986, PL 99-662, enacted on November 17, 1986, the Secretary of the Army through the U.S. Army Corps of Engineers (“**CORPS**”) and non-federal interested parties authorized the construction of certain flood control improvements on the Santa Ana River, California, which includes as a component, improvements to the Prado Dam and Basin, and construction of the Prado Dam Separable Element of the Santa Ana River Mainstem Project (“**PROJECT**”);

B. The Board of Supervisors of DISTRICT determined on January 28, 2003 that the 1980, 1985, and 1988 Supplemental Environmental Impact Statement / Environmental Impact Report for the PROJECT, as certified on November 28, 1989, the applicable Supplemental Environmental Assessments to said document, and the Supplemental Environmental Impact Statement / Environmental Impact Report 583 certified by the Orange County Planning Commission on December 19, 2001, are complete and adequate for the purposes of CEQA Guidelines Section 15162, 15163, or 15164;

C. DISTRICT and the CORPS entered into a Project Cooperation Agreement dated February 11, 2003 and a Second Modification to the Local Cooperation Agreement dated February 24, 2003 for the construction of the PROJECT;

D. DISTRICT, as the Local Sponsor of the PROJECT, is responsible for performing relocations and acquisitions of property rights required for construction of the PROJECT; the CORPS is responsible for the preparation of plans, specifications, and estimates and construction administration;

E. The CORPS has raised the height of the Prado Dam and made other improvements to the Prado Basin and modifications to related facilities that allow more water to be captured behind the Prado Dam;

F. The CORPS has determined, as part of the PROJECT, an earthen dike referred to as the California Institute for Women Dike (“**Dike**”), shall be installed to protect the State owned prison known as the California Institute for Women (hereinafter the “**CIW**”) which is located within the footprint of the PROJECT, as shown on the Location Map attached hereto as **Attachment I**, in order to protect the CIW from potential effects of inundation and flooding due to the increased volume and increased elevation of the water behind the dam resulting from the Prado Dam improvements;

## Attachment A

G. A portion of the Dike is currently proposed on COUNTY property in Prado Regional Park, a facility managed by San Bernardino County Regional Parks (**PARKS**), in an area that is periodically used for overflow parking.

H. As part of the PROJECT, the CORPS is intending to construct a new overflow parking lot and new access road for the PARKS as shown on Attachment I near the southerly border of the Dike, upon land owned by the DISTRICT to replace the lost parking area on COUNTY property;

I. The DISTRICT is intending to allow PARKS to use an area on DISTRICT-land above Elevation 566' for emergency equipment storage in the event that the Prado Dam Reservoir rises to Elevation 566' and permit emergency access to the Dike's maintenance roads in the event that the PARKS' roads are not usable and PARKS' patrons need to be evacuated.

J. Upon completion of the overflow parking lot, COUNTY and DISTRICT intend to exchange a Grant Deed and Temporary Easement Deed on the COUNTY's property for a Permanent Easement Deed and Temporary Easement Deed on the DISTRICT's property

K. As part of the PROJECT, the CORPS is intending to enlarge an existing storm drain culvert on COUNTY property in order to accommodate the potential increased flows due to the construction of the Dike.

L. The DISTRICT intends to reimburse the COUNTY for lost revenue during construction which results from campsite closures.

M. The Parties are contemplating entering into a separate Purchase and Sale Agreement for conveyance of certain easement rights to COUNTY, in addition to those to be conveyed pursuant to the terms of this AGREEMENT, subsequent to completion of the construction of the Dike.

NOW, THEREFORE, in consideration of the following mutual promises and agreements, the Parties agree as follows:

1. Incorporation of Recitals. The Parties agree that the Recitals constitute the factual basis upon which DISTRICT and COUNTY have entered into this AGREEMENT. DISTRICT and COUNTY each acknowledge the accuracy of the Recitals and agree that the Recitals are hereby incorporated into this AGREEMENT.

2. Project Coordination.

A. DISTRICT's OC Public Works Director, or an authorized designee, hereinafter referred to as "**Director**," shall be DISTRICT's representative in all matters pertaining to this AGREEMENT.

B. COUNTY designates the San Bernardino County Regional Parks Director, or any subsequently authorized designee to represent COUNTY in all matters pertaining to this AGREEMENT.

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3. DISTRICT’S Responsibilities.

DISTRICT shall:

a) Provide COUNTY opportunity to review and comment on plans and specifications (“**Plans**”) which specifically pertain to the overflow parking lot, access road and storm drain culvert design prior to construction;

b) Be responsible for coordination with the CORPS on matters pertaining to PROJECT construction management to facilitate the CORPS construction of the overflow parking lot, access road, storm drain culvert and appurtenant structures in accordance with the Plans;

c) Accept from COUNTY, upon execution of this AGREEMENT:

(i) a grant deed, substantially in the form of **Attachment 2** for that portion of COUNTY-owned property needed for the Dike, attached hereto (“**Grant Deed**”), and

(ii) a temporary construction easement, substantially in the form of **Attachment 3** for that portion of COUNTY-owned property needed for the construction of Dike and for that portion of COUNTY-owned property needed for the construction of improvements to the storm drain culvert, attached hereto (“**Temporary Construction Easement**”).

d) Pay to COUNTY:

(i) within thirty days of the date of this AGREEMENT, the amount of TWENTY THOUSAND DOLLARS (\$20,000) for COUNTY and PARKS expenses associated with staff oversight in preparation of and during the construction period,

(ii) within thirty days of the effective date of the Temporary Construction Easement, the amount of FIFTY THOUSAND DOLLARS (\$50,000) for any and all loss of revenue due to the impact of construction upon Park operations, including but not limited to possible closure of ten campsites during the term of the Temporary Construction Easement,

(iii) other fees in accordance with the Temporary Construction Easement, and,

(iv) within thirty days of the date of this AGREEMENT, the amount of ONE HUNDRED EIGHTY-SEVEN THOUSAND, THREE HUNDRED AND SEVENTY-FOUR DOLLARS (\$187,374) as the just compensation due COUNTY based upon DISTRICT’s acquisition of real property rights, title, and interest pursuant herein have a fair market value of \$336,465 (i.e. \$316,240 for the Fee Interest and \$20,225 for the Temporary Construction Easement), and that COUNTY shall receive real property rights, title, and interest pursuant herein for the amount of \$149,091 (i.e. \$137,578 for the Permanent Easement and \$11,513 for the Temporary Easement).

e) Upon receipt of COUNTY’s written acknowledgment that the PARKS Overflow Parking Lot is constructed in accordance with the Plans, execute and deliver to COUNTY a permanent easement deed, substantially in the form of **Attachment 4** attached hereto, to convey a permanent easement for parking to COUNTY (“**Permanent Easement to COUNTY**”), and a temporary easement deed, substantially in the form of **Attachment 5** attached hereto, to convey a temporary easement for temporary parking to COUNTY (“**Temporary Easement to COUNTY**”) upon completion of the PARKS parking lot, as shown on Attachment 1, in accordance with the Plans.

f) Parties acknowledge that the real property over which the Permanent Easement to COUNTY is located (“**Easement Area**”) is currently encumbered by Land Conservation Contract dated February 10, 1978 and recorded in the Official Records of San Bernardino County as Book 9378, Page 2063 and referenced as Williamson Act Contract #78-544 (“**Williamson Act Contract**”). DISTRICT agrees it shall endeavor to take every action necessary to obtain confirmation from City of Chino and California Department of Conservation that COUNTY’s uses under the Permanent Easement are permitted by the Williamson Act Contract. The DISTRICT will seek to either (i) amend the Williamson Act Contract to expressly provide that the COUNTY’s recreational uses are compatible uses or (ii) cancel or terminate the Williamson Act Contract in whole or in part such that the Williamson Act Contract does not restrict the COUNTY’s use of the Easement Area. COUNTY will cooperate and support DISTRICT in any such proceeding to cancel, terminate or amend the Williamson Act Contract.

DISTRICT agrees to indemnify and defend COUNTY against any claims that COUNTY’s use of the Easement Area in accordance with the terms of the Permanent Easement to County is not a permitted use under the Williamson Act Contract and that COUNTY is thereby precluded from further use of the Easement Area. DISTRICT’s indemnity obligations will include the obligation to compensate COUNTY for the actual costs it incurs to secure comparable replacement property as well as any other damages incurred by COUNTY to secure comparable replacement property, to improve the replacement property to a comparable condition, and to relocate COUNTY’s facilities.

If COUNTY acquires replacement property and is reimbursed by DISTRICT pursuant to these indemnity provisions, COUNTY will quitclaim to DISTRICT all rights under the Permanent Easement to County

g) Upon receipt of a sufficient permit application from PARKS, issue a County Property Permit at no cost to PARKS, allowing in cases of emergency use of the Dike’s maintenance road as an alternate evacuation route for PARK’s patrons and utilize an area on DISTRICT property which lies above Elevation 566’ depicted in **Attachment 6**. Said Permit to include, but not limited to the following terms and conditions:

- (i) Permitted uses are not to interfere or impede DISTRICT/CORPS operation and maintenance of the Dike or other flood control activities;
- (ii) District shall not unreasonably delay or deny the issuance of the permit to the PARKS;

## Attachment A

- (iii) PARKS to maintain insurance minimums approved by Director, to assume risk from public use of DISTRICT land. PARKS may self-insure for this purpose;
- (iv) COUNTY to indemnify and hold DISTRICT and the County of Orange harmless from claims due to flooding and liability for use of the Permit area by COUNTY and the general public; and,
- (v) PARKS, at no cost to PARKS, shall be allowed to use the Dike's maintenance road in case of an emergency as an alternate route as needed to evacuate PARKS patrons and an area above Elevation 566' upon which to store its property during a flooding event.

#### 4. COUNTY'S Responsibilities.

COUNTY shall:

- a) Execute deeds, substantially in the forms attached, to convey to DISTRICT the Temporary Construction Easement (**Attachment 3**), Grant Deed (**Attachment 2**) upon execution of this AGREEMENT;
- b) Send DISTRICT written acknowledgement and approval upon completion of construction that the PARKS overflow parking lot is in conformance with the Plans,
- c) Accept the Permanent and Temporary Easements to COUNTY executed by DISTRICT upon receipt from DISTRICT; and,
- d) Apply for the County Property Permit in compliance with the above Section 3(g)
- e) Accept payments in accordance with Section 3(d) as the full and complete settlement of any and all claims against DISTRICT and/or the CORPS, by reason of this PROJECT, including, but not limited to, any and all damage to COUNTY'S remainder property by reason of any acquisition herein or the PROJECT, any and all claims of loss of rent or loss of business goodwill resulting from the construction of the PROJECT (excluding relocation benefits, if any), and any and all other claims that COUNTY may have, whether or not specifically mentioned here, relating directly or indirectly to DISTRICT'S acquisitions herein.
- f) Upon completion of construction within the Temporary Construction Easement and receipt of sufficient permit application from a CORPS' Project contractor, issue a one-year permit allowing said applicant adequate access to maintain and replace in-kind improvements and landscaping installed on County-land as part of the work authorized in the Temporary Construction Easement.

## Attachment A

5. Term. The term of this AGREEMENT shall commence on the date that this AGREEMENT is executed by the Parties, and shall terminate when COUNTY and DISTRICT have completed all obligations as provided for in this AGREEMENT. If the Parties execute this AGREEMENT on different dates, the later date shall control for purposes of establishing the commencement date of this AGREEMENT.

6. Non-waiver of Rights or Remedies. The failure of a Party to exercise any one or more of its rights or remedies under this AGREEMENT shall not constitute a waiver of that Party's right to enforce that right or seek that remedy in the future. No course of conduct or act of forbearance on any one or more occasions by any Party shall preclude that Party from asserting any right or remedy available to it in the future. No course of conduct or act of forbearance on any one or more occasions shall be deemed to be an implied modification of the terms of this AGREEMENT.

7. Assignability. Except as expressly provided in this AGREEMENT or the deeds attached, this AGREEMENT may not be assigned in whole or in part by either Party without the express written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Any attempted assignment of this AGREEMENT without said consent shall be null and void and shall confer no rights or benefits upon the assignee.

8. No Oral Modifications. This AGREEMENT represents the entire understanding of COUNTY and DISTRICT and supersedes all other prior or contemporaneous written or oral agreements pertaining to the subject matter of this AGREEMENT. This AGREEMENT may be modified, but only by written amendment signed by both COUNTY and DISTRICT, or their authorized representative pursuant to this AGREEMENT.

9. Binding Upon Successors. This AGREEMENT and each of its terms shall be binding upon COUNTY, DISTRICT and their respective officers, elected officials, employees, agents, contractors, and permitted successors and assigns.

10. Governing Law. The Parties agree that this AGREEMENT has been negotiated and executed in the State of California and shall be governed by and construed under the laws 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 San Bernardino County, California, and the Parties agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties hereto specifically waive any and all rights to request that an action be transferred for trial to another county.

11. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of every act required pursuant to this AGREEMENT.

12. Covenant of Further Assurances. COUNTY and DISTRICT shall take all other actions and execute all other documents which are reasonably necessary to effectuate this AGREEMENT.

13. Interpretation. This AGREEMENT has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this AGREEMENT. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing, or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party

## Attachment A

further acknowledges that they have not been influenced to any extent whatsoever in executing this AGREEMENT by any other Party hereto or by any person representing them, or both. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this AGREEMENT against the Party that has drafted it is not applicable and is waived. The provisions of this AGREEMENT shall be interpreted in a reasonable manner to affect the purpose of the Parties and this AGREEMENT.

14. Severability. If any term or provision of this AGREEMENT is found to be invalid or unenforceable, DISTRICT and COUNTY both agree that they would have executed this AGREEMENT notwithstanding the invalidity of such term or provision. The invalid term or provision may be severed from the AGREEMENT and the remainder of the AGREEMENT may be enforced in its entirety.

15. Headings. The headings of each section of this AGREEMENT are for the purpose of convenience only and shall not be construed to either expand or limit the express terms and language of each section.

16. Representations and Authority. Each individual Party signing this AGREEMENT on behalf of a Party hereby represents and warrants to the other Party that all necessary legal prerequisites to that Party's execution of this AGREEMENT have been satisfied and that he or she has been authorized to sign this AGREEMENT and bind the Party on whose behalf he or she signs.

17. Notices. Notices required under this AGREEMENT shall be sent to the following:

If to COUNTY: County of San Bernardino RESD  
385 N. Arrowhead Avenue, Third Floor  
San Bernardino, CA 92415-1800  
Facsimile No. (909) 387-5353

and,

San Bernardino County Regional Parks  
777 East Rialto Avenue  
San Bernardino, CA 92415  
Attn: Director of Regional Parks  
Facsimile No. (909) 387-2052

If to DISTRICT: Lance Natsuhara, P.E.  
OC Public Works  
County of Orange  
P.O. Box 4048  
Santa Ana, CA 92702-4048  
Facsimile No. (714) 973-3177

Notices given pursuant to this AGREEMENT shall be deemed received as follows:

- a) If sent by first class mail, five (5) days after deposit into the United State Mail with postage prepaid; or, if sent by registered or certified mail, twenty-four (24) hours after deposit into the United States Mail with postage prepaid;

## Attachment A

- b) If by facsimile, upon transmission and actual receipt by the receiving Party;
- c) If by express courier service or hand delivery, on the date of receipt by the receiving Party.

The addresses for notices set forth in this Section may be changed upon written notice of such change to the other Party, as appropriate.

18. Days. Unless otherwise specified to the contrary, “days” in this AGREEMENT shall mean calendar, not business, days.

19. Counterparts. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20. Attachments. This AGREEMENT includes the following, which are attached hereto and made a part hereof:

- A. ATTACHMENT 1 – Location Map
- B. ATTACHMENT 2 – Grant Deed to DISTRICT
- C. ATTACHMENT 3 –Temporary Construction Easement to DISTRICT
- D. ATTACHMENT 4 – Permanent Easement to COUNTY
- E. ATTACHMENT 5 – Temporary Easement to COUNTY
- F. ATTACHMENT 6 – Depiction for PARKS’ Permit



**Attachment A**

IN WITNESS WHEREOF, each Party hereto has executed this AGREEMENT by its duly authorized representatives as of the date set forth below.

**SAN BERNARDINO COUNTY,**  
a body corporate and politic

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

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

Janice Rutherford  
Chair of the Board of Supervisors  
San Bernardino County, California

Approved as to Form  
Office of the County Counsel  
San Bernardino County, California

JEAN-RENE BASLE  
COUNTY COUNSEL

By:   
Robert F. Messinger, Deputy

Date: 7-30-14

SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIR OF THE BOARD  
Laura H. Welch, Clerk of the Board of Supervisors

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

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

*DISTRICT signature follows*

**Attachment A**

Santa Ana River- Prado Basin

AGREEMENT No. D14-019

**ORANGE COUNTY FLOOD CONTROL DISTRICT,**  
a body corporate and politic

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


By: \_\_\_\_\_  
Chairman, Board of Supervisor  
Orange County, California

Signed and certified that a copy of this document  
has been delivered to the Chair of the Board per  
G.C. Sec. 25103, Reso 79-1535

ATTEST:

\_\_\_\_\_  
Susan Novak  
Clerk of the Board of Supervisors  
Orange County Flood Control District  
Orange County, California

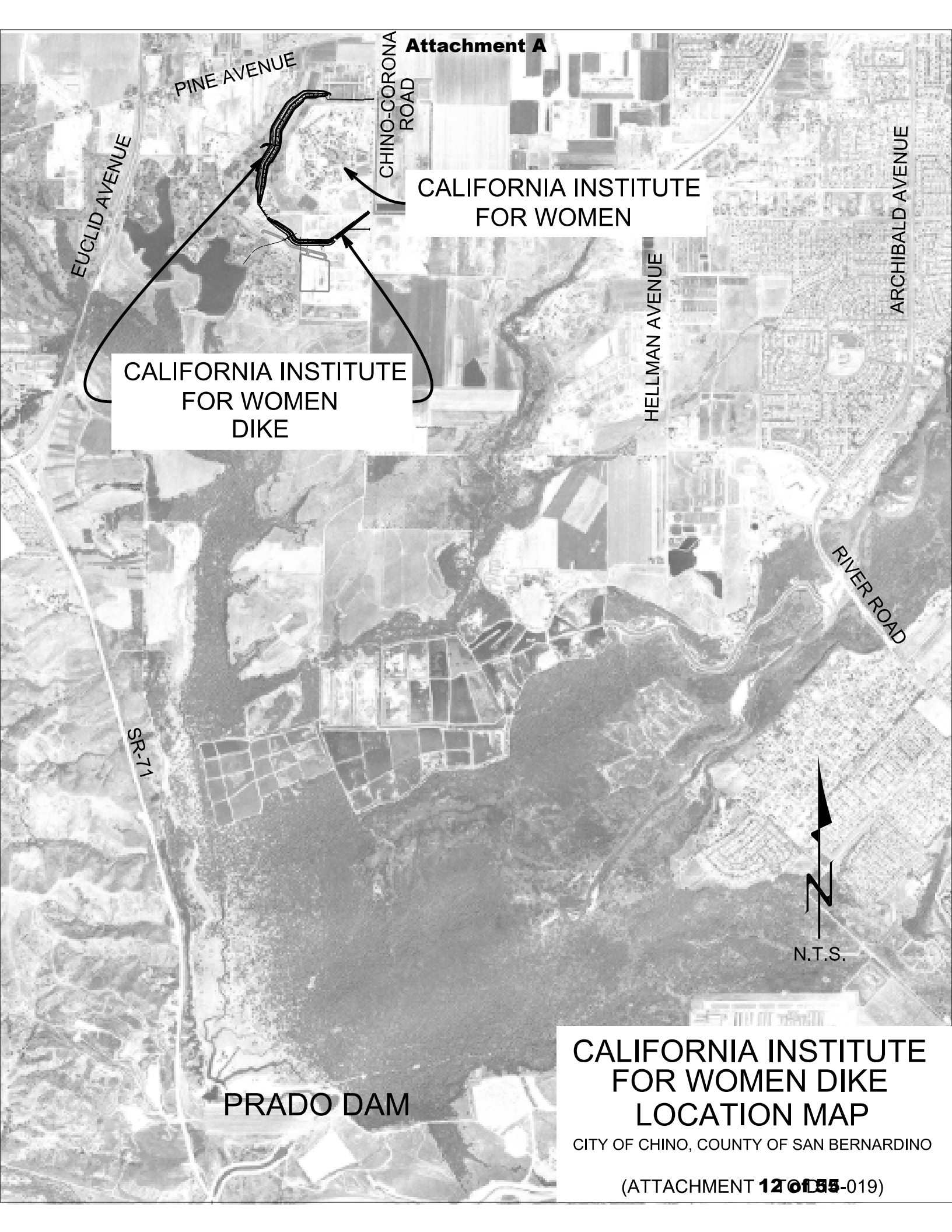
Approved as to Form  
Office of the County Counsel  
Orange County, California

By:   
\_\_\_\_\_  
Geoffrey Hunt, Supervising Deputy

Date: 7-30-2014

**ATTACHMENT I**

Location Map



CALIFORNIA INSTITUTE  
FOR WOMEN  
DIKE

CALIFORNIA INSTITUTE  
FOR WOMEN

PRADO DAM



CALIFORNIA INSTITUTE  
FOR WOMEN DIKE  
LOCATION MAP

CITY OF CHINO, COUNTY OF SAN BERNARDINO

**ATTACHMENT 2**

Grant Deed to DISTRICT

**Attachment A**

D14-019

**ATTACHMENT 2**

RECORD AT REQUEST OF,  
AND WHEN RECORDED MAIL TO:

County of Orange  
OC Public Works  
Real Estate Services  
300 North Flower Street, 6<sup>th</sup> Floor  
Santa Ana, California 92703

**SPACE ABOVE THIS LINE FOR RECORDER'S USE**

MAIL TAX STATEMENTS TO:  
(Same as above)

This is to certify that this document is exempt from recording fees per Govt. Code Sec. 27383 and is exempt from Document Transfer Tax per Rev. & Taxation Code Section 11922.

By: \_\_\_\_\_  
OC PUBLIC WORKS/REAL ESTATE SERVICES

**A. P. N NO.: Portion of 1057-191-07**

- Unincorporated Area
- Incorporated, City of Chino

Project/Parcel No: E01-31-001  
Project Name: Prado Dam Project/CIW Dike

**GRANT DEED**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

COUNTY OF SAN BERNARDINO,  
a body corporate and politic, hereinafter referred to as "**GRANTOR**",  
do(es) hereby GRANT to the

ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic,  
hereinafter referred to as "**DISTRICT**", its successors and assigns,

the fee interest to the real property situated in the County of San Bernardino, State of California, as legally described on **Exhibit A** and depicted on **Exhibit B**, which exhibits are attached hereto and by reference made a part hereof.

Nothing in this Deed is intended nor shall anything in this Deed be construed to transfer to DISTRICT or its successors or assigns or to relieve GRANTOR or its successors or assigns or predecessors in title of any responsibility or liability GRANTOR or its successors or assigns or predecessors in title now has, has had or comes to have with respect to human health or the environment, including but not limited to responsibility or liability relating to hazardous or toxic substances or materials (as such terms as those used in this sentence are defined by statute, ordinance, case law, governmental regulation or other provision of the law). Furthermore, DISTRICT may exercise its rights under law to bring action, if necessary, to recover clean up costs and penalties paid, if any, from GRANTOR or any others who are ultimately determined by a court of competent jurisdiction and/or a federal, state or local regulatory or administrative governmental agency or body having jurisdiction, to have responsibility for said hazardous toxic substances or materials upon, within, or under the real property interests transferred pursuant to this Deed. Notwithstanding the foregoing, DISTRICT shall be and remain liable for any hazardous or toxic substances or materials which become located, because of DISTRICT's operations, upon, within, or under the real property interests transferred pursuant to this Deed.

**Attachment A**

**GRANTOR**

COUNTY OF SAN BERNARDINO,  
a body corporate and politic

By: \_\_\_\_\_  
Janice Rutherford  
Chair of the Board of Supervisors  
San Bernardino County, California

Dated: \_\_\_\_\_

Approved as to Form  
Office of the County Counsel  
San Bernardino County, California

By: Robert F. Messinger  
Robert F. Messinger, Deputy

Date: 7-30-14

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_, before me \_\_\_\_\_,  
(Here insert name and title of officer)

personally appeared \_\_\_\_\_

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**Attachment A**  
**ATTACHMENT 2**

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by the within deed or grant to the ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, is hereby accepted by order of the Board of Supervisors of the County of Orange, California, acting as the governing board of the ORANGE COUNTY FLOOD CONTROL DISTRICT, and the ORANGE COUNTY FLOOD CONTROL DISTRICT consents to recordation thereof by its duly authorized officer.

ORANGE COUNTY FLOOD CONTROL DISTRICT

Dated: \_\_\_\_\_

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

Shane L. Silsby, Director  
OC Public Works

Approved as to Form  
Office of the County Counsel  
Orange County, California

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

Date: 5/29/2014



**Attachment A**  
**EXHIBIT "A"**

**LEGAL DESCRIPTION**

PRADO BASIN  
Facility No.: E01PD  
Parcel No.: 31-001

That portion of Rancho El Rincon in the City of Chino, County of San Bernardino, State of California, as per plat recorded in Book 7 of Maps, Page 9, records of said County, lying within the land described in the deed to the County of San Bernardino, recorded April 8, 1974 in Book 8404, Page 139 of Official Records in the office of the County Recorder of said county, described as follows:

Commencing at the intersection of the centerline of Chino-Corona Road with the centerline of Cucamonga Avenue, as said intersection is shown on a map filed in Book 98, Pages 27 through 32 of Records of Survey in the office of said County Recorder; said intersection also being the northeast corner of Parcel No. E01-31-002 described in Judgment and Final Order of Condemnation recorded June 25, 2008 as Document No. 2008-0289556 of Official Records in said office of County Recorder; thence along the northerly line of said Parcel No. E01-31-002, N.88°56'08"W. 1580.04 feet to the northeast corner of the land described in said deed, said corner being the TRUE POINT OF BEGINNING; thence along the easterly line of the land described in said deed, S.01°38'41"W. 625.43 feet; thence S.01°36'33"W. 205.57 feet; thence leaving said easterly line, N.79°07'06"W. 135.13 feet; thence N.57°14'55"W. 211.66 feet; thence N.28°00'00"W. 205.08 feet; thence N.54°23'58"W. 327.00 feet to the northwesterly line of the land described in said deed; thence along said northwesterly line, N.55°59'35"E. 578.00 feet to the northerly line of said land; thence along said northerly line, S.88°56'08"E. 217.49 feet to the TRUE POINT OF BEGINNING.

Containing 7.906 Acres, more or less.

See EXHIBIT B attached and by reference made a part.

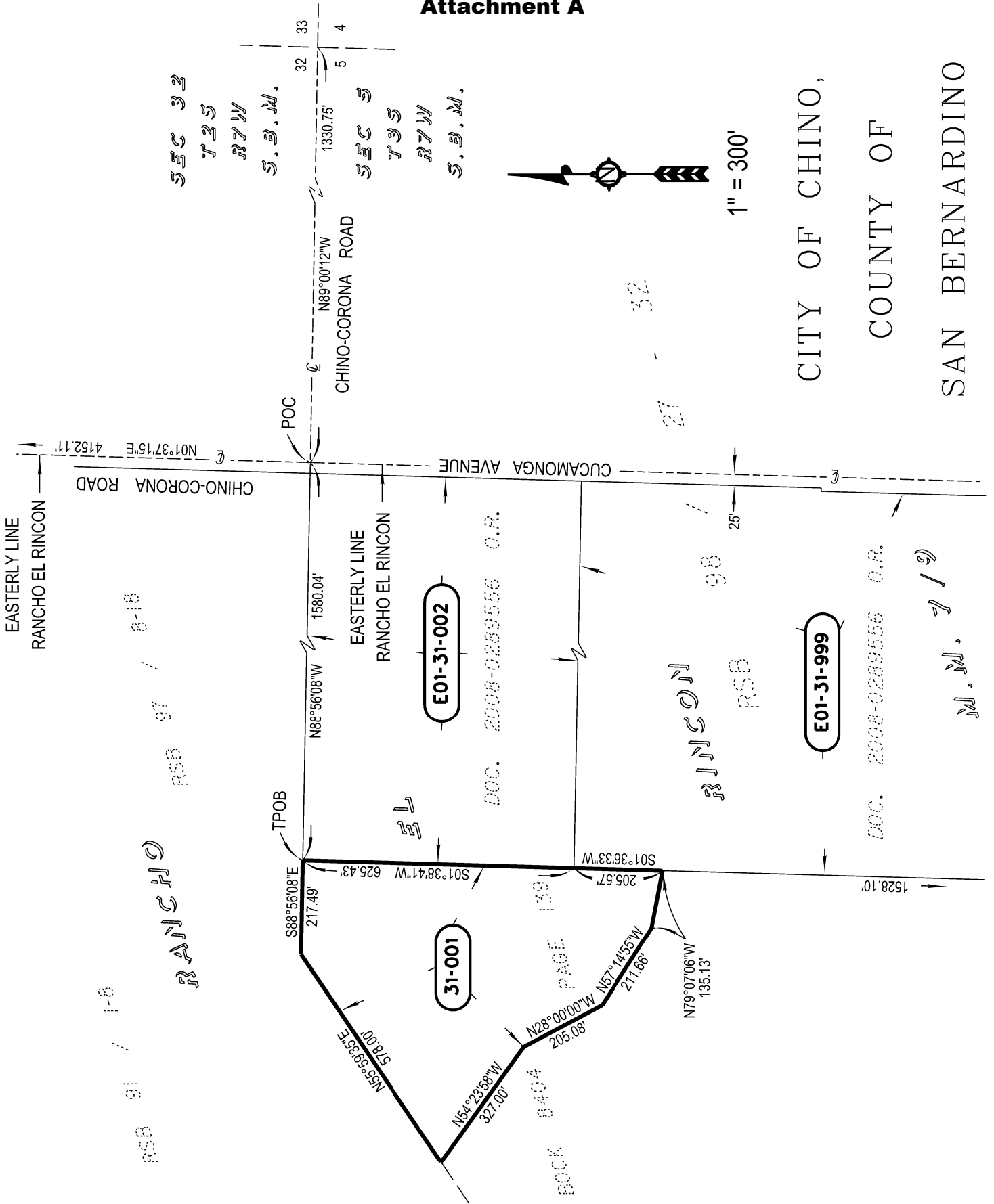
APPROVED

  
\_\_\_\_\_  
Raymond J. Rivera      L.S. 8324

Date: Apr 20, 2014



Attachment A



CITY OF CHINO,  
 COUNTY OF  
 SAN BERNARDINO



OC PUBLIC WORKS  
 OC SURVEY  
 RIGHT-OF-WAY ENGINEERING

PARCEL No.  
 31-001

EXHIBIT B

Sheet 1 of 1  
**18 of 55**

**ATTACHMENT 3**

Temporary Construction Easement to DISTRICT

**Attachment A**

D14-019

**ATTACHMENT 3**

RECORDED AT REQUEST OF,  
AND WHEN RECORDED MAIL TO:

County of Orange  
OC Public Works  
Real Estate Services  
300 North Flower, 6<sup>th</sup> Floor  
Santa Ana, California 92703

**SPACE ABOVE THIS LINE FOR RECORDER'S USE**

APN: portion of

**This is to certify that this document is exempt from recording fees per Govt. Code Sec. 27383 and is exempt from Documentary Transfer Tax per Rev. & Taxation Code Sec. 11922.**

- Unincorporated Area
- Incorporated, City of Chino

By: \_\_\_\_\_  
OC PUBLIC WORKS/REAL ESTATE SERVICES

Project/Parcel No: E01PD-31-001.1  
Project: SAR-Prado/CIW Dike (Area 3)

**TEMPORARY EASEMENT**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

COUNTY OF SAN BERNARDINO,  
a body corporate and politic, hereinafter referred to as "**GRANTOR**",

do(es) hereby GRANT to the

ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic,  
hereinafter referred to as "**DISTRICT**", its successors and assigns,

a temporary easement and right-of-way in, on, over and across the real property in the County of San Bernardino, State of California, as legally described on **Exhibit A** and depicted on **Exhibit B**, which exhibits are attached hereto and by reference made a part hereof ("**Easement Area**"), for a one-year period beginning upon the date specified in a written notice from the OC Public Works Director, or designee (hereinafter "**Director**"), for use by DISTRICT and the United States Army Corps of Engineers, and their respective representatives, agents, and contractors as a work area for construction of a swale, including the right to excavate, deposit fill, grade, and compact soil, to remove temporary structures, and to perform any other work necessary and incident to the construction of that dike known as the California Institute for Women Dike ("**Dike**") which is a component of the Prado Dam Project ("**Project**") in accordance with plans approved by the San Bernardino County Regional Parks Director or

## Attachment A

D14-019

### ATTACHMENT 3

his/her authorized designee, together with the right to trim, cut, fell and remove, therefrom all underbrush, obstructions and any other vegetation, structures, and/or obstacles within the Easement Area; reserving, however, to the GRANTOR, its heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines. GRANTOR agrees not to erect or construct any improvements within the Easement Area.

It is understood and agreed by the GRANTOR and DISTRICT (hereinafter individually referred to as "**Party**," or collectively referred to as "**Parties**") that the Temporary Easement and rights herein granted shall be subject to the following terms, conditions, and reservations:

#### 1. TERM EXTENSION:

DISTRICT has an option to extend the term of this Temporary Easement by two consecutive, ninety (90) day periods. DISTRICT may exercise either option by the Director providing GRANTOR with written notice of each election to extend no later than thirty (30) days' prior to the expiration of the term then in effect. "**Days**" in this Temporary Easement shall mean calendar days. During each extension period, GRANTOR shall be compensated five thousand, five hundred dollars (\$5,500) per month, payable at the beginning of each month, ("**Extension Use Fee**") until this Temporary Easement has expired or otherwise terminated. Director and an authorized representative of GRANTOR may agree to extend beyond the above referenced 180 days on the same terms and conditions, including but not limited to the Extension Use Fee in this Section.

#### 2. SUCCESSORS AND ASSIGNS:

GRANTOR understands and agrees that all rights, title, and interest conveyed herein to DISTRICT are to be exercised by the United States Army Corps of Engineers, its successors and assigns, and their respective officers, agents, employees, representatives, and persons under contract with them, including the contractor hired to perform construction of the Dike, and their employees ("**Corps Parties**"). GRANTOR acknowledges the Corps Parties as a DISTRICT successor in interest herein.

#### 3. HOLD HARMLESS:

DISTRICT assumes ultimate liability for all damages resulting from work performed pursuant to the rights granted herein. Further, the DISTRICT shall hold harmless, indemnify and defend the GRANTOR (with counsel reasonably approved by the GRANTOR) against any claims arising from or in connection with said work.

#### 4. HAZARDOUS MATERIAL:

Nothing in this Temporary Easement is intended nor shall anything in this Temporary Easement be construed to transfer to DISTRICT or DISTRICT'S successors or assigns, or to relieve GRANTOR or GRANTOR'S successors, assigns, or predecessors-in-title of any

## Attachment A

D14-019

### ATTACHMENT 3

responsibility or liability GRANTOR or GRANTOR'S successors, assigns, or predecessors-in-title now has, has had, or comes to have with respect to human health or the environment, including but not limited to responsibility or liability relating to hazardous or toxic substances or materials (as such terms as those used in this sentence are defined by statute, ordinance, case law, governmental regulation or other provision of the law). Notwithstanding the foregoing, DISTRICT shall be and remain liable for any hazardous or toxic substances or materials which become located, because of DISTRICT'S operations, upon, within, or under the real property interests transferred pursuant to this Temporary Easement.

#### 5. NOTICES:

Notices required under this Temporary Easement shall be sent to the following:

GRANTOR:

San Bernardino County  
c/o Department of Regional Parks  
777 East Rialto Avenue  
San Bernardino, CA 92415-0763  
Facsimile: 909/386-2052

DISTRICT:

Lance Natsuhara, P.E.  
County of Orange, OC Public Works  
P.O. Box 4048  
Santa Ana, CA 92702-4048  
Facsimile No. (714) 973-3177  
Re: CIW Dike Temporary Easement – County  
of San Bernardino

Notices given pursuant to this Temporary Easement shall be deemed received as follows:

- a) If sent by first class mail, five (5) days after deposit into the United State Mail with postage prepaid; or, if sent by registered or certified mail, twenty-four (24) hours after deposit into the United Stated Mail with postage prepaid;
- b) If by facsimile, upon transmission and actual receipt by the receiving party;
- c) If by express courier service or hand delivery, on the date of receipt by the receiving party.

The addresses for notices set forth herein may be changed upon written notice of such change to the other party, as appropriate.

#### 6. TERMINATION:

DISTRICT may terminate this Temporary Easement upon written notice from the Director. Subsequent to the termination or expiration of this Temporary Easement, DISTRICT shall forthwith, upon service of written demand from GRANTOR, deliver to GRANTOR, at no cost to GRANTOR, a Quitclaim Deed to DISTRICT's right, title and interest hereunder signed by the Director. The Parties agree to cooperate in the drafting of a Quitclaim Deed and any other documents necessary to clear record title of this Temporary Easement.

**Attachment A**

**GRANTOR**

COUNTY OF SAN BERNARDINO,  
a body corporate and politic

By: \_\_\_\_\_  
Janice Rutherford  
Chair of the Board of Supervisors  
San Bernardino County, California

Dated: \_\_\_\_\_

Approved as to Form  
Office of the County Counsel  
San Bernardino County, California

By: *Robert F. Messinger*  
Robert F. Messinger, Deputy

Date: 7-30-14

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA    )  
  )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_,  
personally appeared \_\_\_\_\_,

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_



**Attachment A**  
**ATTACHMENT 3**

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by the within deed or grant to the ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, is hereby accepted by the undersigned officer or agent on behalf of the Board of Supervisors of Orange County, California, acting as the governing board of the ORANGE COUNTY FLOOD CONTROL DISTRICT, pursuant to authority conferred by minute order dated \_\_\_\_\_ of the said Board of Supervisors, and the ORANGE COUNTY FLOOD CONTROL DISTRICT consents to recordation thereof by its duly authorized officer.

DISTRICT ORANGE COUNTY FLOOD CONTROL

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Shane L. Silsby, Director  
OC Public Works

Approved as to Form  
Office of the County Counsel  
Orange County, California

By:  Date: 5/29/2014  
Deputy



**Attachment A**  
**EXHIBIT "A"**

**LEGAL DESCRIPTION**

PRADO BASIN  
Facility No.: E01PD  
Parcel No.: 31-001.1

That portion of Rancho El Rincon in the City of Chino, County of San Bernardino, State of California, as per plat recorded in Book 7 of Maps, Page 9, records of said County, lying within the land described in the deed to the County of San Bernardino, recorded April 8, 1974 in Book 8404, Page 139 of Official Records in the office of the County Recorder of said county, described as follows:

Commencing at the intersection of the centerline of Chino-Corona Road with the centerline of Cucamonga Avenue, as said intersection is shown on a map filed in Book 98, Pages 27 through 32 of Records of Survey in the office of said County Recorder; said intersection also being the northeast corner of Parcel No. E01-31-002 described in Judgment and Final Order of Condemnation recorded June 25, 2008 as Document No. 2008-0289556 of Official Records in said office of County Recorder; thence along the northerly line of said Parcel No. E01-31-002, N.88°56'08"W. 1580.04 feet to the northeast corner of the land described in said deed; thence along the easterly line of the land described in said deed, S.01°38'41"W. 625.43 feet; thence continuing along said easterly line, S.01°36'33"W. 205.57 feet to the TRUE POINT OF BEGINNING; thence leaving said line, N.79°07'06"W. 135.12 feet; thence N.57°14'55"W. 211.66 feet; thence N.28°00'00"W. 205.08 feet; thence N.54°23'58"W. 327.00 feet to the northwesterly line of the land described in said deed; thence southwesterly along said line, S.55°59'35"W. 253.10 feet; thence leaving said line, S.21°52'16"W. 103.94 feet; thence S.67°38'58"E. 160.04 feet; thence S.14°51'50"W. 259.12 feet; thence S.83°33'29"E. 141.32 feet; thence N.80°55'55"E. 281.68 feet; thence N.14°59'12"E. 51.65 feet; thence S.75°00'49"E. 420.29 feet to the easterly line of the land described in said deed; thence northerly along said easterly line, N.01°36'33"E. 68.16 feet to the TRUE POINT OF BEGINNING.

Containing 5.618 Acres, more or less.

See EXHIBIT B attached and by reference made a part.

APPROVED

  
Raymond J. Rivera

L.S. 8324

Date: Apr 20, 2014





OC PUBLIC WORKS  
OC SURVEY  
RIGHT-OF-WAY ENGINEERING

PARCEL No.  
31-001.1

EXHIBIT B

Sheet 1 of 1  
**26 of 55**

CITY OF  
CHINO

RANCHO  
91 / 1-8  
RSB

EASTERLY LINE  
RANCHO EL RINCON

CHINO-CORONA ROAD

CHINO-CORONA ROAD

CUCAMONGA AVENUE

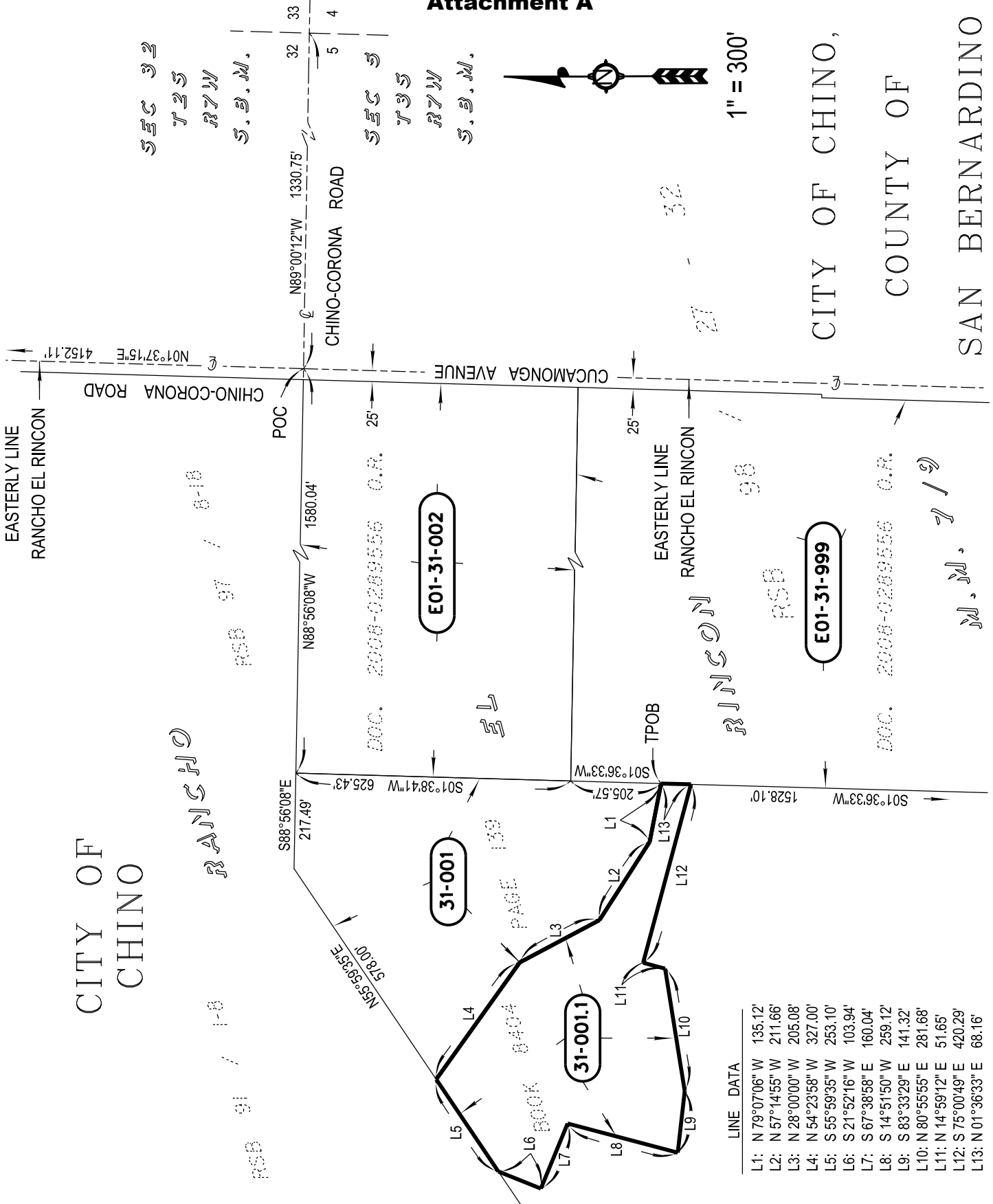
EASTERLY LINE  
RANCHO EL RINCON

CITY OF CHINO,  
COUNTY OF  
SAN BERNARDINO

Attachment A



1" = 300'



LINE DATA

L1:	N 79° 07' 06" W	135.12'
L2:	N 57° 14' 55" W	211.66'
L3:	N 28° 00' 00" W	205.08'
L4:	N 54° 23' 58" W	327.00'
L5:	S 55° 59' 35" W	253.10'
L6:	S 21° 52' 16" W	103.94'
L7:	S 67° 38' 58" E	160.04'
L8:	S 14° 51' 50" W	259.12'
L9:	S 83° 33' 29" E	141.32'
L10:	N 80° 55' 55" E	281.68'
L11:	N 14° 59' 12" E	51.65'
L12:	S 75° 00' 49" E	420.29'
L13:	N 01° 36' 33" E	68.16'

**ATTACHMENT 4**

Permanent Easement to COUNTY

**Attachment A**  
**ATTACHMENT 4**

**RECORDED AT THE REQUEST OF  
AND WHEN RECORDED MAIL TO:**

San Bernardino County  
c/o Department of Public Works  
825 East Third Street  
San Bernardino, CA 92415-0835

Mail Tax Statements as shown above

THIS SPACE FOR RECORDER'S USE ONLY

APN: portions of 1057-201-06 1057-201-08

**DOCUMENTARY TRANSFER TAX \$ -0-**

- Computed on the consideration or value of property conveyed  
 Exempt per Revenue & Taxation Code Section 11922  
 Exempt from Recording Fees per Govt. Code Section 27383

By:

\_\_\_\_\_  
SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX      FIRM NAME

- Unincorporated Area  
 Incorporated - City of Chino

Parcel No: E01PD-31-999.1

Project: SAR – Prado/CIW Dike (Area 5)

**EASEMENT DEED**

For valuable consideration, receipt of which is hereby acknowledged,

ORANGE COUNTY FLOOD CONTROL DISTRICT,  
a body corporate and politic,  
hereinafter referred to as "**DISTRICT**,"

does hereby grant to

COUNTY OF SAN BERNADINO,  
a body corporate and politic,  
hereinafter referred to as "**GRANTEE**," its, successor and assigns,

an exclusive surface easement for public recreation and related vehicular parking on, over, upon and across that certain real property (hereinafter referred to as "**Easement Area**") described in "**Exhibit A**," and illustrated in "**Exhibit B**," which exhibits are attached hereto and made a part hereof.

GRANTEE'S rights shall include the right to repair, maintain, and operate a parking lot and recreational area in connection with GRANTEE'S "Prado Regional Park" facility, and to construct, maintain, and use surface improvements consisting of access-ways, curbs, gutters, sidewalks, and landscaping ("**Facilities**") that are compatible with the Santa Ana River Mainstem Project and that do not impair or diminish existing or future requirements for flood risk management in the Easement Area. The compatibility of said Facilities with the Santa Ana River Mainstem Project shall be determined in writing by the DISTRICT'S OC Public Works Director, or designee (hereinafter referred to as "**Director**") acting jointly with the U.S. Army Corps of Engineers (Corps), Federal partner to the Santa Ana River Mainstem Project. GRANTEE's rights shall also include reasonable access, ingress, and egress to the Easement Area for the purpose of exercising the rights herein granted.

**Attachment A**  
**ATTACHMENT 4**

DISTRICT and GRANTEE, may sometimes hereinafter be individually referred to as “**Party**” or jointly as “**Parties**”. It is understood and agreed by the Parties hereto and their successors and assigns that the easement and right of way herein granted in this Easement Deed shall be subject to the following terms, conditions, and reservations:

**1. CONSTRUCTION AND MAINTENANCE (PMES2.2N)**

GRANTEE shall have all construction and/or excavation plans, including but not limited to any landscaping plans, approved in writing by the Director, prior to commencement of any work in, on or about the Easement Area; and upon completion of any such work, GRANTEE shall immediately notify Director in writing of such completion and furnish as-builts to the Director within sixty (60) days of providing such notice.

Director’s approval of GRANTEE’S construction and/or excavation plans shall not be deemed approval from the standpoint of structural safety, suitability for purpose or conformance with building or other codes or other governmental requirements. DISTRICT is not responsible for permitting of any construction and/or grading, design, assumptions or accuracy of GRANTEE’S construction and/or excavation plans. Director will rely on the professional expertise of the Engineer of Record when approving GRANTEE’S construction and/or maintenance plans.

GRANTEE hereby acknowledges that the Easement Area lies within a vicinity of DISTRICT’S flood risk management structure commonly referred to as the California Institute of Women Dike (hereinafter “the **Dike**”), a feature of the Santa Ana River Mainstem Project. Any activities undertaken by GRANTEE shall be undertaken in such a manner that will allow for unobstructed flood control operations and maintenance of the Santa Ana River Mainstem Project flood risk management structures, including but not limited to the Dike, by DISTRICT.

Should it be necessary for GRANTEE to conduct any construction or excavation activities or otherwise disturb the surface of the Easement Area subsequent to the completion of the initial installation of GRANTEE’S Facilities, GRANTEE agrees to notify Director in writing ninety (90) days in advance of such planned activities, obtain Director’s written approval of all plans, and obtain a permit for construction from the County of Orange (“**County**”) with payment of normal processing fees prior to commencement of any such activities. Said approval shall not be withheld unreasonably, nor shall said approval be necessary in any emergency situation or in conducting routine maintenance activities which do not involve disturbance of the Easement Area surface.

GRANTEE acknowledges that no structures for permanent human habitation shall be constructed or maintained within the Easement Area, that no other structures shall be constructed or maintained on the land except as may be approved in writing by Director in accordance with the terms this Section, and that no excavation shall be conducted and no landfill placed on the land without such approval as to the location and method of excavation and/or placement of landfill.

Except in areas in which such activities require regulatory agency approval, or are otherwise designated as environmentally sensitive, GRANTEE may, in accordance with approved landscaping plans, cut such roots as may endanger or interfere with GRANTEE’S Facilities provided, however, that any excavation shall be made in such a manner as will cause the least injury to the surface of the ground and any improvements and/or landscaping around such excavation, and that the earth so removed shall be replaced and the surface of the ground and any improvements and/or landscaping around such excavation, damaged shall be promptly restored by GRANTEE at its expense to the same condition as existed prior to excavation, to Director’s satisfaction.

GRANTEE shall, at no cost to DISTRICT, maintain in good repair and in safe condition all Facilities

**Attachment A**  
**ATTACHMENT 4**

constructed, used or placed upon the Easement Area by or on behalf of GRANTEE pursuant to this easement.

**2. JOINT USE**

GRANTEE acknowledges the Easement Area is subject to on-going use in connection with the operation and maintenance of the Santa Ana River Mainstem Project, including but not limited to Prado Dam, the Dike, and other flood risk management facilities. The Parties agree that use the Easement Area for flood risk management purposes are paramount to any use or rights conveyed herein. DISTRICT expressly reserves the right to interrupt use of the Easement Area in cases of an emergency or as may be determined necessary by the Corps. GRANTEE agrees to have an established plan to evacuate the public from the Easement Area in cases of flooding, and to provide Director said evacuation plan and any updates thereto.

**3. COMPLIANCE WITH REGULATORY AUTHORITIES (PMES6.2N)**

GRANTEE shall, at its own cost and expense, promptly and at all times observe, comply with and carry out all present and future activities in accordance with applicable orders, regulations, directions, rules, laws, ordinances, permits and requirements of all governmental authorities, including but not limited to environmental regulatory authorities, with jurisdiction in, on, over and about the Easement Area, which arise from GRANTEE'S use of or performance of any activities permitted to be conducted in, on, over, or across the Easement Area.

In addition, GRANTEE shall ensure that all construction, maintenance, and operation within the Easement Area is performed in accordance with any NPDES (National Pollutant Discharge Elimination System) permit requirements, Waste Discharge Requirement (WDR), or other water quality statutes, regulations, ordinances, or permits applicable to the surface waters flowing over the Easement Area, including but not limited to use of appropriate best management practices, so as to ensure that pollutants are not discharged into DISTRICT'S flood control system.

No approvals or consents given hereunder by DISTRICT, as a Party to this Easement Deed, shall be deemed approval as to compliance or conformance with applicable governmental codes, laws, rules or regulations.

**4. HOLD HARMLESS (PMES7.2N)**

GRANTEE acknowledges the Easement Area is in the vicinity of DISTRICT'S Dike and subject to GRANTOR's right to overflow, flood, and submerge the land in connection with the operation and maintenance of the Santa Ana River Mainstem Project. GRANTEE acknowledges the Easement Area is subject to all hazards associated with flood conditions and agrees to assume all risks, financial or otherwise, associated therewith.

GRANTEE hereby releases and waives all claims and recourse against DISTRICT, County and the United States,, including the right of contribution for loss of or damage to property, or injury to or death of any person arising from, growing out of or in any way connected with or related to this easement, including any damage to or interruption of use of GRANTEE'S Facilities caused by erosion, flood, or flood overflow conditions, or caused by the maintenance, repair, reconstruction, replacement or improvement of the Dike or by DISTRICT'S flood control operations, except claims arising from the concurrent active or sole negligence of DISTRICT and/or County, their officers, agents, employees and contractors.

GRANTEE hereby agrees to indemnify, defend (with counsel approved in writing by DISTRICT), and hold harmless, DISTRICT, County, and the United States, their respective elected and appointed officials, officers, agents, employees and contractors ("**DISTRICT Indemnitee/s**") against any and all claims, losses, demands, damages, cost, expenses or liability for injury to any persons or property, arising out of the maintenance, use of or operations or activities conducted in, on, or over the Easement Area, and/or the exercise of the rights under this easement by GRANTEE, its agents, officers, employees, invitees or licensees including, but not

**Attachment A**  
**ATTACHMENT 4**

limited to, use of the Easement Area by members of the general public. GRANTEE'S indemnity obligation shall not extend to any liability arising out of the concurrent active or sole negligence of DISTRICT, and/or County, their elected and appointed officials, officers, agents, employees or contractors, including the cost of defense of any lawsuit arising therefrom. If DISTRICT and/or any of the DISTRICT Indemnitees is/are named as co-defendant(s) in a lawsuit, GRANTEE shall notify Director of such fact and shall represent DISTRICT/DISTRICT Indemnitee in such legal action unless said entity or individual undertake(s) to represent itself/themselves as co-defendant(s) in such legal action, in which event, GRANTEE shall pay to DISTRICT/DISTRICT Indemnitee its/their litigation costs, expenses, and attorneys' fees. If judgment is entered against DISTRICT/DISTRICT Indemnitee and GRANTEE by a court of competent jurisdiction because of the concurrent active negligence of DISTRICT/County and GRANTEE, DISTRICT and GRANTEE agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

PARTIES acknowledge and agree that DISTRICT Indemnitees, or any of them, shall not be deemed negligent in the maintenance and/or operation of flood risk management improvements, including but not limited to, the Dike and Prado Dam, if in substantial conformance with standard practices used for similar facilities.

**5. GRANTEE'S LIABILITY FOR HAZARDOUS OR TOXIC MATERIALS (PMES8.2S)**

GRANTEE shall not cause or permit any "Hazardous Material," as hereinafter defined, to be brought upon, kept, or used in or about the Easement Area. If GRANTEE breaches the obligations stated herein, or if contamination of the Easement Area by Hazardous Material otherwise occurs for which GRANTEE is legally liable to DISTRICT for damage resulting therefrom, then GRANTEE shall indemnify, defend with counsel approved in writing by DISTRICT, and hold harmless, DISTRICT and/or County, and their elected or appointed officials, officers, agents, and employees from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Easement Area, sums paid in settlement of claims, attorney fees, consultant fees, and expert witness fees) which arise during or after GRANTEE'S use of the Easement Area as a result of such contamination. This indemnification includes, without limitation, costs incurred by DISTRICT in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental entity or agency because of Hazardous Material being present in the soil or ground water under the Easement Area. GRANTEE shall promptly take all action, at its sole cost and expense, as is necessary to clean, remove, and restore the Easement Area to its condition prior to the introduction of such Hazardous Material by GRANTEE, provided GRANTEE shall first have obtained Director's written approval and the approval of any necessary governmental entities or agencies for any such remedial action.

As used herein, the term "**Hazardous Material**" means any hazardous or toxic substance, material, or waste which is or shall become regulated by any governmental entity or agency, including, without limitation, any County, the State of California, or the United States government.

**6. RESERVATIONS (PMES9.1N)**

DISTRICT hereby reserves for itself and its successors and assigns, such surface, subsurface and aerial rights in the Easement Area as will not unreasonably interfere with or prohibit the use by GRANTEE of the rights and easement herein granted, including but not limited to, the right to grant subsurface easements within the Easement Area for utility purposes, as well as, the right to overflow, flood, and submerge the surface. Before granting any such utility easement, DISTRICT will notify GRANTEE of the proposed use and will take steps to minimize any interference with GRANTEE use of the surface.

In the event DISTRICT exercises such rights to utilize the Easement Area and such use results in the disturbance of the Easement Area, DISTRICT'S only responsibility shall be to backfill with compacted earth to the grade of the surrounding property following completion of DISTRICT'S activity and restore

**Attachment A**  
**ATTACHMENT 4**

GRANTEE'S Facilities to the design and grade approved as provided for in Section 1 above.

DISTRICT further reserves for itself and its successors and assigns, the right to limit or place health and/or safety conditions upon GRANTEE'S future use of the Easement Area to the extent necessary to protect the interests of the Santa Ana River Mainstem Project.

**7. CONVEYANCE SUBJECT TO EXISTING INTERESTS (PMES10.1S)**

This easement is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect the Easement Area, and the use of the word "grant" herein shall not be construed as a covenant against the existence of any thereof.

Nothing contained herein, or in any document related hereto, shall be construed to imply the conveyance to GRANTEE of rights in the Easement Area which exceed those owned by DISTRICT, or any representation or warranty, either express or implied, relating to the nature or condition of the Easement Area or DISTRICT'S interest therein.

**8. TAXES AND ASSESSMENTS (PMES11.1N)**

Should this easement create a possessory interest in GRANTEE which is subject to the payment of taxes levied on such interest, it is understood and agreed that all taxes and assessments (including but not limited to said possessory interest tax) which become due and payable upon the Easement Area or upon fixtures, equipment, or other property installed, constructed or used by GRANTEE thereon in connection with this easement, shall be the full responsibility of GRANTEE, and GRANTEE shall cause said taxes and assessments resulting from the possessory interest to be paid promptly when due.

**9. NOTICES (PMES12.1S)**

All notices, documents, correspondence and communications concerning this easement shall be addressed as set forth in this Section, or as the Parties may hereafter designate by written notice, and shall be sent through the United States mail with postage prepaid. Any such mailing shall be deemed served or delivered twenty-four (24) hours after mailing. Each Party may change the address for notices by giving the other Party at least ten (10) calendar days' prior written notice of the new address.

Notwithstanding the above, either Party may also provide notices, documents, correspondence, or such other communications to the other by personal delivery or by facsimile and so given shall be deemed to have been given upon receipt if provided by personal delivery; or if by facsimile on the day transmitted provided transmitted by 4:30 P.M. (PT) on the receiving Party's regular business day, otherwise delivery shall be deemed to have been given on the next business day.

To DISTRICT:

Orange County Flood Control District  
c/o OC Public Works/Real Estate Services  
300 N. Flower Street, 6th Floor  
Santa Ana, CA 92703  
Facsimile: 714/967-0887  
Re: SARP/CIW- County Park Easement

To GRANTEE:

San Bernardino County  
c/o Department of Regional Parks  
777 East Rialto Avenue  
San Bernardino, CA 92415-0763  
Facsimile: 909/387-2052

**10. VENUE (PMES13.1N)**

The Parties hereto agree that this Easement Deed has been negotiated and executed in the State of California and shall be governed by and construed under the laws of California. In the event of any legal action to



**Attachment A**  
**ATTACHMENT 4**

enforce or interpret this Easement Deed, the sole and exclusive venue shall be a court of competent jurisdiction located in the County of San Bernardino, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties hereto specifically waive any and all rights to request that an action be transferred for trial to another county.

**11. WAIVER OF RIGHTS (PMES14.1S)**

The failure of DISTRICT to insist upon strict performance of any of the terms, covenants, or conditions of this easement shall not be deemed a waiver of any right or remedy that DISTRICT may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants, and conditions of the easement thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant, or condition of the easement.

**12. SEVERABILITY (PMES15.1S)**

If any term, covenant, condition, or provision of this easement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

**13. ATTORNEYS' FEES (PMES16.1S)**

In any action or proceeding brought to enforce or interpret any provision of this easement, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorneys' fees and costs.

**14. SUCCESSORS AND ASSIGNS (PMES18.1S)**

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties hereto.

**15. AUTHORITY (PMES20.1S)**

The Parties hereto represent and warrant that this Easement Deed has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

//

//

*Signature Pages Follow*

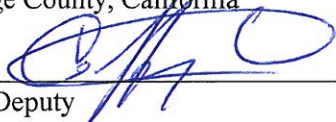
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**Attachment A**  
**ATTACHMENT 4**

Approved as to Form  
Office of the County Counsel  
Orange County, California

By:   
Deputy

Date: 7-30-2014

**DISTRICT**  
ORANGE COUNTY FLOOD CONTROL  
DISTRICT, a body corporate and politic

By: \_\_\_\_\_  
Shane L. Silsby, Director  
OC Public Works  
Orange County, California  
Per Minute Order \_\_\_\_

Approved as to Form  
Office of the County Counsel  
San Bernardino County, California

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

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

**GRANTEE**  
COUNTY OF SAN BERNARDINO,  
a body corporate and politic

By: \_\_\_\_\_  
Janice Rutherford  
Chair of the Board of Supervisors  
San Bernardino County, California

**Attachment A**

Approved as to Form  
Office of the County Counsel  
Orange County, California

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

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

**DISTRICT**

ORANGE COUNTY FLOOD CONTROL  
DISTRICT, a body corporate and politic

By: \_\_\_\_\_  
Shane L. Silsby, Director  
OC Public Works  
Orange County, California  
Per Minute Order \_\_\_\_

Approved as to Form  
Office of the County Counsel  
San Bernardino County, California

By: Robert F. Messinger  
Robert F. Messinger, Deputy

Date: 7-30-14

**GRANTEE**

COUNTY OF SAN BERNARDINO,  
a body corporate and politic

By: \_\_\_\_\_  
Janice Rutherford  
Chair of the Board of Supervisors  
San Bernardino County, California



**Attachment A**  
**ATTACHMENT 4**

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by the within Easement Deed or grant to the COUNTY OF SAN BERNARDINO, a body corporate and politic of the State of California, is hereby accepted by the undersigned officer/agent on behalf of the Board of Supervisors pursuant to authority conferred by resolution of the Board of Supervisors adopted on March 27, 2012 and the GRANTEE consents to recordation thereof by its duly authorized office/agent.

COUNTY OF SAN BERNARDINO,  
a body corporate and politic

By: \_\_\_\_\_  
Terry W. Thompson  
Director  
Real Estate Services Department  
San Bernardino County, California

Dated: \_\_\_\_\_

**Attachment A**  
**EXHIBIT "A"**

**LEGAL DESCRIPTION**

PRADO BASIN  
Facility No.: E01PD  
Parcel No.: 31-999.1

That portion of Rancho El Rincon in the City of Chino, County of San Bernardino, State of California, as per plat recorded in Book 7 of Maps, Page 9, records of said County, lying within the land described as Parcel No. E01-31-999 in Judgment and Final Order of Condemnation recorded June 25, 2008 as Document No. 2008-0289556 of Official Records in the office of County Recorder described as follows:

Commencing at the intersection of the centerline of Chino-Corona Road with the centerline of Cucamonga Avenue, as said intersection is shown on a map filed in Book 98, Pages 27 through 32 of Records of Survey in said office of the County Recorder; said intersection also being the northeast corner of Parcel No. E01-31-002 described in said Judgment and Final Order of Condemnation; thence along the northerly line of said Parcel, N.88°56'08"W. 1580.04 feet to the northwest corner of said Parcel; thence along the westerly line of said Parcel, S.01°38'41"W. 625.43 feet to the southwest corner of said Parcel, said corner also being the northwest corner of said Parcel No. E01-31-999; thence along the westerly line of last said Parcel, S.01°36'33"W. 1018.31 feet to the TRUE POINT OF BEGINNING; thence leaving said westerly line, S.89°51'05"E. 686.87 feet; thence N.00°39'31"E. 494.44 feet; thence N.75°00'47"W. 105.34 feet; thence N.14°59'13"E. 55.41 feet to the beginning of a tangent curve concave southwesterly and having a radius of 57.50 feet; thence northwesterly, 90.32 feet along said curve through a central angle of 90°00'00"; thence N.75°00'47"W. 561.38 feet to the westerly line of said Parcel; thence along said westerly line, S.01°36'33"W. 41.12 feet; thence leaving said westerly line, S.75°00'47"E. 151.87 feet; to the beginning of a tangent curve concave southwesterly and having a radius of 17.50 feet; thence southeasterly, 27.49 feet along said curve through a central angle of 90°00'00"; thence S.14°59'13"W. 55.41 feet; thence N.75°00'47"W. 152.03 feet to the westerly line of said Parcel; thence along said westerly line, S.01°36'33"W. 673.23 feet to the TRUE POINT OF BEGINNING.

EXCEPT that portion described as follows: commencing at the southeasterly terminus of that certain course described above as having a bearing of N.75°00'47"W. and a length of 152.03 feet; thence continuing S.75°00'47"E. 40.00 feet to the TRUE POINT OF BEGINNING; thence N.14°59'13"E. 55.41 feet to the beginning of a tangent curve concave southeasterly and having a radius of 17.50 feet; thence northeasterly, 27.49 feet along said curve through a central angle of 90°00'00"; thence S.75°00'47"E. 325.00 feet to the beginning of a tangent curve concave southwesterly and having a radius of 17.50 feet; thence southeasterly, 27.49 feet along said curve through a central angle of 90°00'00";

**Attachment A**

thence S.14°59'13"W. 55.41 feet; thence N.75°00'47"W 360.00 feet to the TRUE POINT OF BEGINNING.

Containing 9.827 Acres, more or less.

See EXHIBIT B attached and by reference made a part.

APPROVED

  
\_\_\_\_\_  
Raymond J. Rivera      L.S. 8324

Date: June 10, 2014



**Attachment A**

RANCHO

RSB 91 / 1-8

RSB 97 / 8-18

SEC 32

T2S

R7W

S.B.M.

EASTERLY LINE  
RANCHO EL RINCON

CHINO-CORONA  
ROAD

N88°56'08"W 1580.04'

N89°00'12"W 1330.75'

DOC. 2008-0289556 O.R.

**E01-31-002**

SEC 3

T3S

R7W

S.B.M.

N01°37'15"E

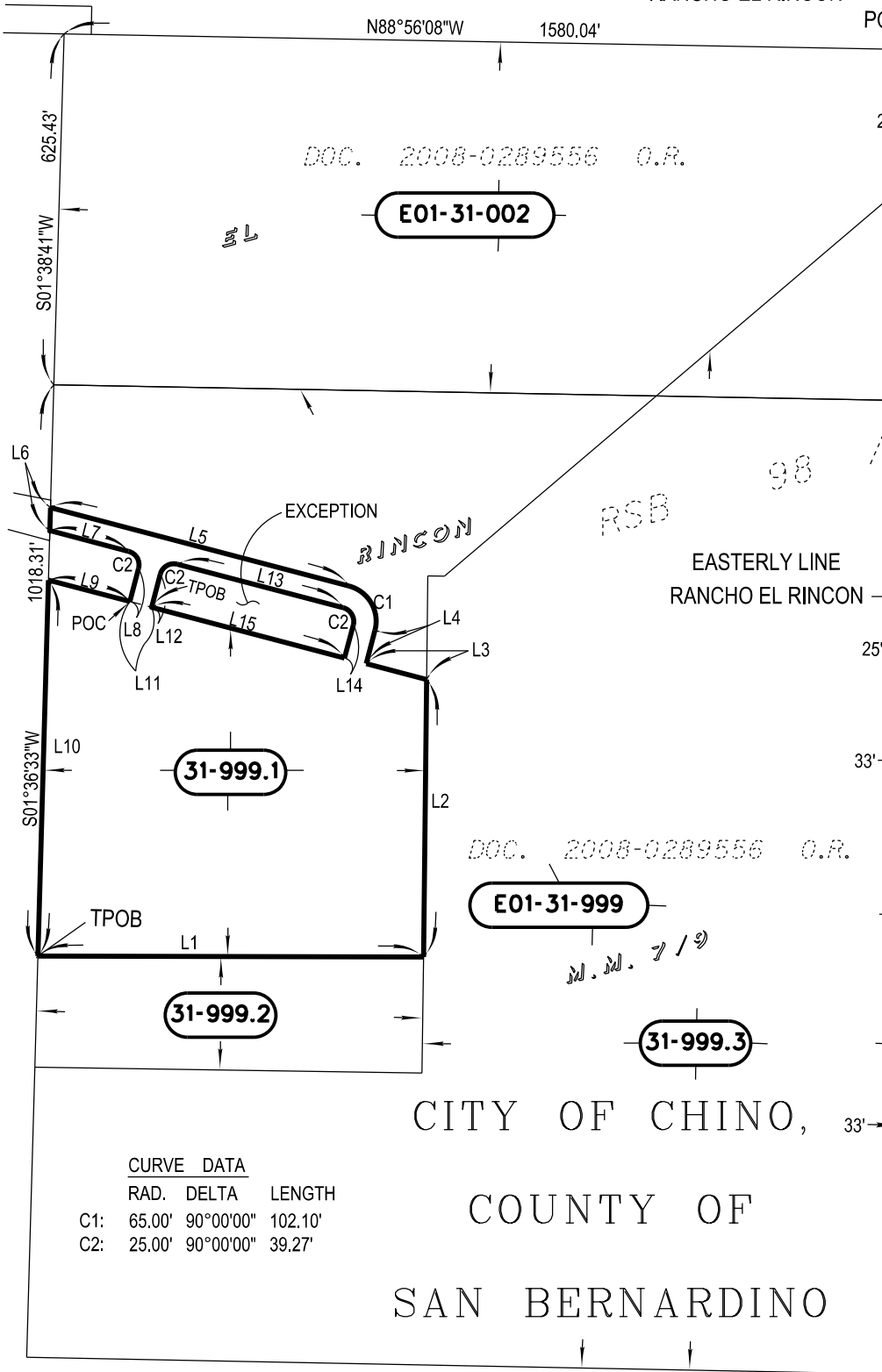
4152.11'

CUCAMONGA AVENUE

EASTERLY LINE  
RANCHO EL RINCON



1" = 300'



**CURVE DATA**

	RAD.	DELTA	LENGTH
C1:	65.00'	90°00'00"	102.10'
C2:	25.00'	90°00'00"	39.27'

**LINE DATA**

L1:	S 89°51'05" E	686.87'
L2:	N 00°39'31" E	494.44'
L3:	N 75°16'36" W	111.21'
L4:	N 14°43'24" E	61.00'
L5:	N 75°16'36" W	549.75'
L6:	S 01°36'33" W	41.07'
L7:	S 75°16'36" E	144.96'
L8:	S 14°43'24" W	61.00'
L9:	N 75°16'36" W	149.92'
L10:	S 01°36'33" W	669.94'
L11:	S 75°16'36" E	40.00'
L12:	N 14°43'24" E	61.00'
L13:	S 75°16'36" E	305.47'
L14:	S 14°43'24" W	61.00'
L15:	N 75°16'36" W	355.47'

CITY OF CHINO,  
COUNTY OF  
SAN BERNARDINO



OC PUBLIC WORKS  
OC SURVEY  
RIGHT-OF-WAY ENGINEERING

PARCEL No.  
31-999.1

EXHIBIT B

Sheet 1 of 1  
**40 of 55**



**ATTACHMENT 5**

Temporary Easement to COUNTY

**Attachment A**

D14-019

**ATTACHMENT 5**

**RECORDED AT THE REQUEST OF  
AND WHEN RECORDED MAIL TO:**

San Bernardino County  
c/o Department of Regional Parks  
825 East Third Street  
San Bernardino, CA 92415-0835

Mail Tax Statements as shown above

THIS SPACE FOR RECORDER'S USE ONLY

**APN:** portion of 1057-201-08

**DOCUMENTARY TRANSFER TAX \$ -0-**

- Computed on the consideration or value of property conveyed
- Exempt per Revenue & Taxation Code Section 11922
- Exempt from Recording Fees per Govt. Code Section 27383

By: \_\_\_\_\_  
SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX      FIRM NAME

- Unincorporated Area
- Incorporated - City of Chino

Parcel No: E01PD-31-999.2  
Project: SAR – Prado/CIW Dike (Area 6)

**TEMPORARY EASEMENT**

For valuable consideration, receipt of which is hereby acknowledged,

ORANGE COUNTY FLOOD CONTROL DISTRICT,  
a body corporate and politic,  
hereinafter referred to as "**DISTRICT**,"

does hereby grant to

COUNTY OF SAN BERNADINO,  
a body corporate and politic,  
hereinafter referred to as "**GRANTEE**," its, successor and assigns,

a non-exclusive easement for ingress, egress, vehicular parking on, over, upon and across that certain real property (hereinafter referred to as "**Easement Area**") described in "**Exhibit A**," and illustrated in "**Exhibit B**," which exhibits are attached hereto and made a part hereof.

GRANTEE'S rights shall include use of surface improvements and shall reasonable access to the Easement Area for the purpose of exercising the rights herein granted.

DISTRICT and GRANTEE may sometimes hereinafter be individually referred to as "**Party**" or jointly as "**Parties**". It is understood and agreed by the Parties hereto and their successors and assigns that the easement and right of way herein granted in this Temporary Easement shall be subject to the following terms, conditions, and reservations:

**1. TERM**

The Parties intend the term of this Temporary Easement to coincide with the term of that certain “Temporary Easement” which was conveyed from the County of San Bernardino to the Orange County Flood Control District and recorded in the Official Records of the County of San Bernardino on \_\_\_\_\_ as Instrument Number \_\_\_\_\_ (“TCE”). This Temporary Easement shall commence upon GRANTEE’S written notice to Director OC Public Works, or designee, (hereinafter referred to as “**Director**”) and shall remain in effect until such time as the Director has submitted written notice to GRANTEE that the TCE has expired or otherwise terminated.

**2. CONSTRUCTION AND MAINTENANCE (PMES2.2N)**

GRANTEE shall not perform any construction, landscaping, excavation, or grading in, on or about the Easement Area without notifying DISTRICT'S OC Public Works Director, or designee (hereinafter referred to as “**Director**”) in writing ninety (90) days in advance of such planned activities, obtaining Director’s written approval of all plans, and obtaining a permit for such work from the County of Orange (“**County**”) with payment of normal processing fees prior to commencement of any such activities. Said approval shall not be withheld unreasonably, nor shall said approval be necessary in any emergency situation or in conducting routine maintenance activities which do not involve disturbance of the Easement Area surface. Upon completion of any such work, GRANTEE shall immediately notify Director in writing of such completion and furnish as-builts to the Director within sixty (60) days of providing such notice.

Director’s approval of GRANTEE'S construction and/or excavation plans shall not be deemed approval from the standpoint of structural safety, suitability for purpose or conformance with building or other codes or other governmental requirements. DISTRICT is not responsible for permitting of any construction and/or maintenance, grading, design, assumptions or accuracy of GRANTEE'S construction and/or excavation plans. Director will rely on the professional expertise of the Engineer of Record when approving GRANTEE'S construction and/or maintenance plans.

GRANTEE hereby acknowledges that the Easement Area lies within a vicinity of DISTRICT’S flood risk management structure commonly referred to as the California Institute of Women Dike (hereinafter “the **Dike**”), a feature of the Santa Ana River Mainstem Project. Any activities undertaken by GRANTEE shall be undertaken in such a manner that will allow for unobstructed flood risk management operations and maintenance of the Santa Ana River Mainstem Project, including but not limited to the Dike, by DISTRICT.

**3. COMPLIANCE WITH REGULATORY AUTHORITIES (PMES6.2N)**

GRANTEE shall, at its own cost and expense, promptly and at all times observe, comply with and carry out all present and future activities in accordance with applicable orders, regulations, directions, rules, laws, ordinances, permits and requirements of all governmental authorities, including but not limited to environmental regulatory authorities, with jurisdiction in, on, over and

## Attachment A

D14-019

### ATTACHMENT 5

about the Easement Area, which arise from GRANTEE'S use of or performance of any activities permitted to be conducted in, on, over, or across the Easement Area.

In addition, GRANTEE shall ensure that all maintenance and operation within the Easement Area is performed in accordance with any NPDES (National Pollutant Discharge Elimination System) permit requirements, Waste Discharge Requirement (WDR), or other water quality statutes, regulations, ordinances, or permits applicable to the surface waters flowing over the Easement Area, including but not limited to use of appropriate best management practices, so as to ensure that pollutants are not discharged into DISTRICT'S flood control system.

No approvals or consents given hereunder by DISTRICT, as a Party to this Temporary Easement, shall be deemed approval as to compliance or conformance with applicable governmental codes, laws, rules or regulations.

#### 4. HOLD HARMLESS (PMES7.2N)

GRANTEE acknowledges the Easement Area is in the vicinity of DISTRICT'S Dike and subject to GRANTOR's right to overflow, flood, and submerge the land in connection with the operation and maintenance of the Santa Ana River Mainstem Project. GRANTEE acknowledges the Easement Area is subject to all hazards associated with flood conditions and agrees to assume all risks, financial or otherwise, associated therewith.

GRANTEE hereby releases and waives all claims and recourse against DISTRICT, County, and the United States, including the right of contribution for loss of or damage to property, or injury to or death of any person arising from, growing out of or in any way connected with or related to this easement, including any damage to or interruption of use of GRANTEE'S Facilities caused by erosion, flood, or flood overflow conditions, or caused by the maintenance, repair, reconstruction, replacement or improvement of the Dike or by DISTRICT'S flood control and/or flood risk management operations, except claims arising from the concurrent active or sole negligence of DISTRICT and/or County, their officers, agents, employees and contractors.

GRANTEE hereby agrees to indemnify, defend (with counsel approved in writing by DISTRICT), and hold harmless, DISTRICT, County, and the United States, their respective elected and appointed officials, officers, agents, employees and contractors ("**DISTRICT Indemnitee/s**") against any and all claims, losses, demands, damages, cost, expenses or liability for injury to any persons or property, arising out of the maintenance, use of or operations or activities conducted in, on, or over the Easement Area, and/or the exercise of the rights under this easement by GRANTEE, its agents, officers, employees, invitees or licensees including, but not limited to, use of the Easement Area by members of the general public. GRANTEE'S indemnity obligation shall not extend to any liability arising out of the concurrent active or sole negligence of DISTRICT, and/or County, their elected and appointed officials, officers, agents, employees or contractors, including the cost of defense of any lawsuit arising therefrom. If DISTRICT and/or any of the DISTRICT Indemnitees is/are named as co-defendant(s) in a lawsuit, GRANTEE shall notify Director of such fact and shall represent DISTRICT/ DISTRICT Indemnitee in such legal action unless said entity or individual undertake(s) to represent itself/themselves as co-defendant(s) in such legal action, in which event, GRANTEE shall pay to DISTRICT/ DISTRICT Indemnitee its/their litigation costs,

## Attachment A

D14-019

### ATTACHMENT 5

expenses, and attorneys' fees. If judgment is entered against DISTRICT/ DISTRICT Indemnitee and GRANTEE by a court of competent jurisdiction because of the concurrent active negligence of DISTRICT/County and GRANTEE, DISTRICT and GRANTEE agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

PARTIES acknowledge and agree that DISTRICT Indemnitees, or any of them, shall not be deemed negligent in the maintenance and/or operation of flood risk management improvements, including but not limited to, the Dike and Prado Dam, in substantial conformance with standard practices used for similar facilities.

#### 5. GRANTEE'S LIABILITY FOR HAZARDOUS OR TOXIC MATERIALS

(PMES8.2S)

GRANTEE shall not cause or permit any "Hazardous Material," as hereinafter defined, to be brought upon, kept, or used in or about the Easement Area. If GRANTEE breaches the obligations stated herein, or if contamination of the Easement Area by Hazardous Material otherwise occurs for which GRANTEE is legally liable to DISTRICT for damage resulting therefrom, then GRANTEE shall indemnify, defend with counsel approved in writing by DISTRICT, and hold harmless, DISTRICT and/or County, and their elected or appointed officials, officers, agents, and employees from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Easement Area, sums paid in settlement of claims, attorney fees, consultant fees, and expert witness fees) which arise during or after GRANTEE'S use of the Easement Area as a result of such contamination. This indemnification includes, without limitation, costs incurred by DISTRICT in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental entity or agency because of Hazardous Material being present in the soil or ground water under the Easement Area. GRANTEE shall promptly take all action, at its sole cost and expense, as is necessary to clean, remove, and restore the Easement Area to its condition prior to the introduction of such Hazardous Material by GRANTEE, provided GRANTEE shall first have obtained Director's written approval and the approval of any necessary governmental entities or agencies for any such remedial action.

As used herein, the term "**Hazardous Material**" means any hazardous or toxic substance, material, or waste which is or shall become regulated by any governmental entity or agency, including, without limitation, any County, the State of California, or the United States government.

#### 6. RESERVATIONS (PMES9.1N)

DISTRICT hereby reserves for itself and its successors and assigns, such surface, subsurface and aerial rights in the Easement Area as will not unreasonably interfere with or prohibit the use by GRANTEE of the rights and easement herein granted.

GRANTEE acknowledges the Easement Area is subject to on-going use in connection with the operation and maintenance of the Santa Ana River Mainstem Project, including but not limited to the Dike and other flood risk management facilities. The Parties agree that use of the Easement Area for flood control purposes are paramount to any use or rights conveyed herein. DISTRICT

## Attachment A

D14-019

### ATTACHMENT 5

expressly reserves the right to interrupt use of the Easement Area in cases of an emergency or as may be determined necessary by the Director. GRANTEE agrees to have an established plan to evacuate the public from the Easement Area in cases of flooding, and to provide Director said evacuation plan and any updates thereto.

#### 7. CONVEYANCE SUBJECT TO EXISTING INTERESTS (PMES10.1S)

This easement is subject to existing contracts, leases, licenses, easements, encumbrances, and claims which may affect the Easement Area and the use of the word "grant" herein shall not be construed as a covenant against the existence of any thereof.

Nothing contained herein, or in any document related hereto, shall be construed to imply the conveyance to GRANTEE of rights in the Easement Area which exceed those owned by DISTRICT, or any representation or warranty, either express or implied, relating to the nature or condition of the Easement Area or DISTRICT'S interest therein.

#### 8. NOTICES (PMES12.1S)

All notices, documents, correspondence and communications concerning this Temporary Easement shall be addressed as set forth in this Section, or as the Parties may hereafter designate by written notice, and shall be sent through the United States mail with postage prepaid. Any such mailing shall be deemed served or delivered twenty-four (24) hours after mailing. Each Party may change the address for notices by giving the other Party at least ten (10) calendar days' prior written notice of the new address.

Notwithstanding the above, either Party may also provide notices, documents, correspondence, or such other communications to the other by personal delivery or by facsimile and so given shall be deemed to have been given upon receipt if provided by personal delivery; or if by facsimile on the day transmitted provided transmitted by 4:30 P.M. (PT) on the receiving Party's regular business day, otherwise delivery shall be deemed to have been given on the next business day.

#### To DISTRICT:

Orange County Flood Control District  
c/o OC Public Works/Real Estate Services  
300 N. Flower Street  
Santa Ana, CA 92703  
Facsimile: 714/967-0887  
Re: SARP/CIW- Temporary Easement

#### To GRANTEE:

San Bernardino County  
c/o Department of Regional Parks  
777 East Rialto Avenue  
San Bernardino, CA 92415-0763  
Facsimile: 909/386-2052

#### 9. VENUE (PMES13.1N)

The Parties hereto agree that this Temporary Easement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of California. In the event of any legal action to enforce or interpret this Temporary Easement, the sole and exclusive venue shall be a court of competent jurisdiction located in the County of San Bernardino, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties hereto specifically

## **Attachment A**

D14-019

### **ATTACHMENT 5**

waive any and all rights to request that an action be transferred for trial to another county.

#### **10. WAIVER OF RIGHTS (PMES14.1S)**

The failure of DISTRICT to insist upon strict performance of any of the terms, covenants, or conditions of this easement shall not be deemed a waiver of any right or remedy that DISTRICT may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants, and conditions of the easement thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant, or condition of the easement.

#### **11. SEVERABILITY (PMES15.1S)**

If any term, covenant, condition, or provision of this easement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

#### **12. ATTORNEYS' FEES (PMES16.1S)**

In any action or proceeding brought to enforce or interpret any provision of this easement, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorneys' fees and costs.

#### **13. AUTHORITY (PMES20.1S)**

The Parties hereto represent and warrant that this Temporary Easement has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

#### **14. TERMINATION**

DISTRICT may terminate this Temporary Easement upon written notice from the Director. Subsequent to the termination or expiration of this Temporary Easement, DISTRICT shall forthwith, upon service of written demand from GRANTOR, deliver to GRANTOR, at no cost to GRANTOR, a Quitclaim Deed to DISTRICT's right, title and interest hereunder signed by the Director. The Parties agree to cooperate in the drafting of a Quitclaim Deed and any other documents necessary to clear record title of this Temporary Easement.

**Attachment A**

D14-019

**ATTACHMENT 5**

Approved as to Form  
Office of the County Counsel  
Orange County, California

By:   
Deputy

Date: 7-30-2014

**DISTRICT**

ORANGE COUNTY FLOOD CONTROL  
DISTRICT, a body corporate and politic

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

Shane L. Silsby, Director  
OC Public Works  
Orange County, California  
Per Minute Order \_\_\_\_

Approved as to Form  
Office of the County Counsel  
San Bernardino County, California

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

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

**GRANTEE**

COUNTY OF SAN BERNARDINO,  
a body corporate and politic

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

Janice Rutherford  
Chair of the Board of Supervisors  
San Bernardino County, California



**Attachment A**

D14-019

Approved as to Form  
Office of the County Counsel  
Orange County, California

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

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

**DISTRICT**

ORANGE COUNTY FLOOD CONTROL  
DISTRICT, a body corporate and politic

By: \_\_\_\_\_  
Shane L. Silsby, Director  
OC Public Works  
Orange County, California  
Per Minute Order \_\_\_\_

Approved as to Form  
Office of the County Counsel  
San Bernardino County, California

By: Robert F. Messinger  
Robert F. Messinger, Deputy

Date: 7-30-14

**GRANTEE**

COUNTY OF SAN BERNARDINO,  
a body corporate and politic

By: \_\_\_\_\_  
Janice Rutherford  
Chair of the Board of Supervisors  
San Bernardino County, California

**Attachment A**

D14-019

**ATTACHMENT 5**

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_ before me, \_\_\_\_\_, personally appeared

\_\_\_\_\_

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

Document: Temporary Easement  
Grantor/Grantee: OC Flood Control District/County of San Bernardino

**Attachment A**

D14-019

**ATTACHMENT 5**

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by the within Easement Deed or grant to the COUNTY OF SAN BERNARDINO, a body corporate and politic of the State of California, is hereby accepted by the undersigned officer/agent on behalf of the Board of Supervisors pursuant to authority conferred by resolution of the Board of Supervisors adopted on March 27, 2012 and the GRANTEE consents to recordation thereof by its duly authorized office/agent.

COUNTY OF SAN BERNARDINO,  
a body corporate and politic

By: \_\_\_\_\_  
Terry W. Thompson  
Director  
Real Estate Services Department  
San Bernardino County, California

Dated: \_\_\_\_\_

**Attachment A**  
**EXHIBIT "A"**

**LEGAL DESCRIPTION**

PRADO BASIN  
Facility No.: E01PD  
Parcel No.: 31-999.2

That portion of Rancho El Rincon in the City of Chino, County of San Bernardino, State of California, as per plat recorded in Book 7 of Maps, Page 9, records of said County, lying within the land described as Parcel No. E01-31-999 in Judgment and Final Order of Condemnation recorded June 25, 2008 as Document No. 2008-0289556 of Official Records in the office of County Recorder described as follows:

Commencing at the intersection of the centerline of Chino-Corona Road with the centerline of Cucamonga Avenue, as said intersection is shown on a map filed in Book 98, Pages 27 through 32 of Records of Survey in said office of the County Recorder; said intersection also being the northeast corner of Parcel No. E01-31-002 described in said Judgment and Final Order of Condemnation; thence along the northerly line of said Parcel, N.88°56'08"W. 1580.04 feet to the northwest corner of said Parcel; thence along the westerly line of said Parcel, S.01°38'41"W. 625.43 feet to the southwest corner of said Parcel, said corner also being the northwest corner of said Parcel No. E01-31-999; thence along the westerly line of last said Parcel, S.01°36'33"W. 1018.31 feet to the TRUE POINT OF BEGINNING; thence leaving said westerly line, S.89°51'05"E. 686.87 feet; thence S.00°46'17"W. 206.79 feet; thence N.89°07'19"W. 689.72 feet to the westerly line of said Parcel; thence along said westerly line, N.01°36'33"E. 198.05 feet to the TRUE POINT OF BEGINNING.

Containing 3.198 Acres, more or less.

See EXHIBIT B attached and by reference made a part.

APPROVED

Raymond J. Rivera Date: Apr 20, 2014  
Raymond J. Rivera L.S. 8324



**Attachment A**

RANCHO

RSB 91 / 1-8  
 RSB 97 / 8-18

SEC 32

T2S

R7W

S.B.M.

EASTERLY LINE  
 RANCHO EL RINCON

N01°37'15"E  
 4152.11'

CHINO-CORONA  
 ROAD

32 33  
 5 4

N88°56'08"W 1580.04'

N89°00'12"W 1330.75'

DOC. 2008-0289556 O.R.

**E01-31-002**

SEC 5

T3S

R7W

S.B.M.

RINCON

RSB

98

EASTERLY LINE  
 RANCHO EL RINCON

CUCAMONGA AVENUE

27 - 32

625.43'  
 S01°38'41"W

1018.31'  
 S01°36'33"W

**31-999.1**

DOC. 2008-0289556 O.R.

**E01-31-999**

M.M. 7/9

**31-999.2**

**31-999.3**

TPOB

L1

L4

L2

L3

CITY OF CHINO,

COUNTY OF

SAN BERNARDINO

LINE DATA

L1:	S 89°51'05" E	686.87'
L2:	S 00°46'17" W	206.79'
L3:	N 89°07'19" W	689.72'
L4:	N 01°36'33" E	198.05'



1" = 300'



**OC PUBLIC WORKS**  
 OC SURVEY  
 RIGHT-OF-WAY ENGINEERING

PARCEL No.  
 31-999.2

**EXHIBIT B**

Sheet 1 of 1  
**53 of 55**

**ATTACHMENT 6**

Depiction for PARKS' Permit

