

**MONITORING WELLS OCWD-35K1P AND OCWD-35K1Q
RELOCATION AGREEMENT
BETWEEN THE ORANGE COUNTY SANITATION DISTRICT AND
ORANGE COUNTY WATER DISTRICT**

THIS MONITORING WELLS RELOCATION AGREEMENT (“Agreement”), is made and entered into on this ____ day of _____, 2022 by and between the ORANGE COUNTY SANITATION DISTRICT, a County Sanitation District (“OC San”), and ORANGE COUNTY WATER DISTRICT, a Water District (“OCWD”). OC San and OCWD are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as “Parties.”

RECITALS

WHEREAS, OC San is a duly organized County Sanitation District existing pursuant to the County Sanitation District Act, California Health and Safety Code section 4700, *et seq.*, providing for the ownership, operation, and maintenance of wastewater collection, treatment, and disposal facilities within Orange County, California;

WHEREAS, OCWD is a political subdivision of the State of California organized under Chapter 924 of the Statutes of 1933, as amended and its successors and assigns, that manages the Orange County Groundwater Basin within Orange County, California;

WHEREAS, OC San owns, operates and maintains sewer facilities including, but not limited to, a pump station located on Westminster Boulevard in the City of Seal Beach;

WHEREAS, OC San intends to relocate and upgrade its pump station (the “Seal Beach Pump Station”) because the existing facility is aging and in need of replacement (the “Project”);

WHEREAS, the U.S. Department of the Navy (“Navy”) owns the property on which the Seal Beach Pump Station and other OC San facilities are located, and OC San possesses an easement granted by the Navy to operate and maintain the Seal Beach Pump Station and other OC San facilities (“OC San Easement”);

WHEREAS, OCWD owns, operates, and maintains groundwater monitoring wells (the “Wells”) near the Seal Beach Pump Station, which must be relocated as a result of the Project;

WHEREAS, OCWD possesses an easement granted by the Navy to operate and maintain the Wells (“OCWD Easement”);

WHEREAS, OC San agrees to do the following to OCWD standards: demolish the existing OCWD Wells, design new Wells, and construct new Wells within the OC San Easement (collectively, the “Work”) in accordance with the tentative plans attached to this Agreement as Exhibit “A” (the “Tentative Plans”), as they may be modified by the Approved Plans and Specifications (as defined below); and

WHEREAS, OC San agrees to: (a) be responsible for the design, management, and construction of the Work, which includes any demolition, abandonment, removal, replacement, and/or relocation of any existing Wells necessary to complete the Work; and (b) pay all costs and expenses related to the Work subject to the terms and conditions of this Agreement; and

WHEREAS, OCWD agrees, with the good faith assistance of OC San where requested, to coordinate with the Navy to (a) quitclaim the OCWD Easement, and (b) obtain a new easement to accommodate the new Wells to be constructed as part of the Work.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Parties hereto agree as follows:

Section 1: Recitals. The Recitals above are deemed true and correct, are hereby incorporated into this Agreement by this reference, as though fully set forth herein, and each Party to this Agreement acknowledges and agrees that it is bound by the same.

Section 2: Elements of Agreement. OC San and OCWD will work cooperatively together so that the Work can be completed in a manner that minimizes the cost to and impact on the public while allowing the Parties to accomplish their respective missions. The specific terms and conditions governing the elements of this Agreement are set forth hereinafter.

Section 3: OC San's Specific Obligations.

- A. OC San shall (and shall cause its agents and contractors to) comply with all applicable laws, regulations, and ordinances in connection with performing the Work.
- B. OC San will obtain all required access rights (including, prior to commencing monitoring well construction, a Right-of-Entry permit from the Navy), and enter into and administer contracts for the design and field oversight/lithologic logging services needed for the Work, which includes contracting with the necessary engineering consultant(s) to accomplish the design efforts, and OC San assumes full responsibility for the design and construction services necessary to complete the Work.
- C. OC San shall promptly inform OCWD of any proposed changes to the construction contract as it relates to the Work. Copies of proposed changes to the construction contract affecting some or all of OCWD's facilities will be provided to OCWD within five (5) working days after OC San's receipt thereof.
- D. OC San will submit prepared plans and specifications for the design and construction of the Work for review, comment, and written approval by OCWD, such approval not to be unreasonably withheld, conditioned, or delayed. OCWD shall notify OC San, in writing, of its approval or withholding of approval of the plans and specifications within ten (10)

calendar days after OCWD's receipt of the proposed plans and specifications from OC San. If OCWD does not approve such proposed plans and specifications, OCWD will in such written notice provide OC San with a reasonably-detailed statement of its basis for denial, whereupon OC San shall require its hired consultant to correct the plans and specifications to OCWD's reasonable satisfaction. The final plans and specifications approved in writing by OCWD shall be referred to hereinafter as the "Approved Plans and Specifications."

- E. OC San shall be responsible for advertising, awarding, and administering a contract for the construction of the Work, in conformance with all applicable laws governing construction of public works by OC San. In connection with the foregoing, OC San will issue a public works bid package as well as administer and enter into a construction contract to perform the Work in accordance with the Approved Plans and Specifications. OC San shall ensure that the contractor for the Work has the appropriate license from the California State License Board and that such contractor complies with the prevailing wage laws including, but not limited to, California Labor Code Sections 1720 *et seq.* and 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *et seq.* ("Prevailing Wage Laws"). Upon determination of the successful bidder, OC San will submit such information to OCWD for their files.
- F. OC San shall not accept any portion of the Work unless it has been previously inspected and approved in writing by OCWD. In connection therewith, OC San will request, from time to time, that OCWD inspects and approves the Work or any portion thereof. Such request for inspection and approval shall be referred to herein as an "OC San Inspection Request".
- G. OC San will document and inform OCWD of the date of its final acceptance of the Work, and the date when the Notice of Completion is filed.
- H. OC San, its agents, and contractors shall keep the Work free from any statutory or common law liens arising out of any Work performed, materials furnished, or obligations incurred by OC San, its agents, or contractors in connection with the Work.
- I. OC San, its agents and contractors, shall comply with all requirements of the Navy during the pendency of the Work.

Section 4: OCWD's Specific Obligations.

- A. OCWD will arrange to quitclaim its current easement for the Wells with the Navy and obtain new easements for the new Wells to be constructed as part of

the Work. The quitclaim process shall be completed prior to commencement of well destruction activities, and the new easement procurement shall be in-process and agreed to in concept by the Navy prior to commencement of the Work. The new easement shall be obtained by OCWD before OC San transfers ownership and responsibility of the new wells to OCWD per Section 6.

- B. OCWD will provide, at OCWD's sole expense, inspection services for the Work as it deems necessary to assure compliance with the Approved Plans and Specifications, including, but not limited to, shop drawing review and material inspection. In connection therewith, OC San shall provide OCWD inspectors uninhibited access to the area of the Project where the Work is being performed to review, check and inspect the Work, and an adequate on-site work space to perform such services, provided that OCWD has given OC San twenty-four (24) hours advance notice of its desire to inspect the Work. By no later than two (2) working days after any such inspection, OCWD will promptly notify OC San in writing if any portion of the Work appears not to conform to the Approved Plans and Specifications, and OC San shall cause its contractor to correct such non-conforming Work to be consistent with the Approved Plans and Specifications.
- C. OCWD will respond to any OC San Inspection Request within two (2) working days and conduct the requested inspection within three (3) working days thereafter. If OCWD fails to respond to an OC San Inspection Request or conduct the requested inspection within the respective time periods prescribed above, or if OCWD fails to notify OC San that any portion of the Work appears not to conform to the Approved Plans and Specifications within two (2) working days after its inspection, the Work, in its then-current condition, shall be automatically deemed approved by OCWD.
- D. OCWD shall return comments to OC San on all shop drawing submittals and change order requests and respond to OC San's requests for information within three (3) working days from receipt of such submittals by OCWD; provided, however, that OCWD shall not unreasonably withhold, condition, or delay its approval of any change order proposed by OC San that: (i) is required to perform the Work properly and/or to comply with any entitlement, permit, or approval for the Work issued, or to be issued, by any governmental body; and (ii) does not materially and adversely affect the function of OCWD's systems or equipment. If OCWD fails to respond to any shop drawings or change order submitted by OC San within such three (3) working day period, the submitted shop drawings or change order, as applicable, shall automatically be deemed approved by OCWD. This provision shall not apply to review process for the plans and specifications.

Section 5: Payment for Work. OC San shall pay 100% of the actual and necessary costs and expenses of its obligations under this Agreement as described in Section 3.

Notwithstanding the foregoing, OC San shall not be responsible for any costs or expenses incurred by OC San as a result of: (a) OCWD's failure to timely and fully comply with its obligations under this Agreement; (b) any change order required by OCWD that is not required to perform the Work properly, but is instead done for OCWD's convenience or to satisfy OCWD's preference; or (c) any losses, costs, damages, or liabilities arising from negligence or willful misconduct on the part of OCWD, its officers, agents, employees, or consultants.

Section 6: Final Approval of Work. Prior to OCWD's acceptance of the Work and OC San's recordation of a Notice of Completion, OCWD shall review and provide written approval of the Work. When the Work is ready for OCWD's final inspection, OC San shall notify OCWD of the same in writing, and OCWD shall make arrangements with OC San to perform its final inspection of the Work within three working days following OCWD's receipt of such notice. OCWD's written approval shall only be withheld for Work not completed in accordance with the Approved Plans and Specifications or if based upon concerns or lack of concurrence by the Navy. OC San shall furnish OCWD with one set of record drawings for the completed Work and a copy of the recorded Notice of Completion. Upon OCWD's written approval, OC San shall transfer to OCWD, and OCWD shall accept and assume ownership of and responsibility for operation, maintenance, upkeep, repair, and replacement of all improvements installed or constructed as part of the Work. OC San shall, promptly following written request therefor from OCWD, deliver to OCWD any documents or instruments necessary to evidence or complete such transfer to OCWD.

Section 7: Encroachment Permit(s). To the extent required by OC San to perform the Work in accordance with the Approved Plans and Specifications, as determined in OC San's sole and absolute discretion, OC San agrees to acquire, at OC San's sole cost and expense, a well construction permit required by the Orange County Health Care Agency and an encroachment permit that may be required by the City of Seal Beach in the name of either OC San or OCWD, as appropriate. Notwithstanding the foregoing, OC San shall not be responsible for the payment of any annual fees, costs or expenses required to be paid after the original acquisition of such encroachment permit(s) unless such encroachment permit(s) are in the name of OC San. The Parties shall timely and fully cooperate with each other and shall execute such other and further documents and take such other and further actions as may be necessary or convenient to obtain any such encroachment permits.

Section 8: Indemnification.

- A. OC San will, and it hereby does, indemnify, defend, and hold harmless OCWD, its elected and appointed officials, officers, agents, employees, and contractors from any and all actions, suits, claims, liability, or expense for death, injury, loss, or damage to persons or property that may arise or that are claimed to have arisen during or as a result of the Work performed by or on behalf of OC San, its officers, agents, employees, or contractors, save and except to the extent that such action, suit, claim, liability, or expense is solely caused by or a result of any act, omission, or negligence of OCWD, its officers, agents, employees, or contractors.

Section 12: Jurisdiction. In the event of a dispute regarding performance or interpretation of this Agreement, the venue for any action to enforce or interpret this Agreement will lie in the Superior Court of California for Orange County.

Section 13: Cooperation. The Parties shall cooperate with each other to achieve the purpose of this Agreement and shall execute such other and further documents and take such other and further actions as may be necessary or convenient to fulfill their obligations described herein. The Parties further agree to use all reasonable efforts to cause the fulfillment of the conditions to the Parties' obligations hereunder and to obtain as promptly as possible all approvals from each and every third party, whether private or governmental, required in connection with the Work contemplated by this Agreement.

Section 14: No Third Party Beneficiaries. This Agreement is entered into by and for OCWD and OC San, and nothing herein is intended to establish rights or interests in individuals or entities not a party hereto.

Section 15: Force Majeure. Except for the payment of money, neither Party will be liable for any delays or other non-performance resulting from circumstances or causes beyond its reasonable control, including without limitation, fire or other casualty, act of God, strike or labor dispute, war or other violence, acts of third parties, or any law, order, or requirement of any governmental agency or authority.

Section 16: Governing Law. This Agreement will be governed by the laws of the State of California.

Section 17: Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties and supersedes all previous negotiations and agreements between the Parties pertaining to the subject matter hereof.

Section 18: Waiver. A waiver of a breach of the covenants, conditions, or obligations under this Agreement by either Party will not be construed as a waiver of any succeeding breach of the same or other covenants, conditions, or obligations of this Agreement.

Section 19: Modification. Alteration, change, or modification of this Agreement will be in the form of a written amendment, which will be signed by both Parties.

Section 20: Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement will continue in full force and effect.

Section 21: Agreement Execution and Authorization. Each of the undersigned represents and warrants that he or she is duly authorized to execute and deliver this Agreement and that such execution is binding upon the entity on whose behalf he or she is executing this Agreement.

Section 22: Counterparts Deemed Original: This Agreement may be executed in one or more counterparts (including by e-mail, other electronic transmission, and/or facsimile), all parties need not be signatories to the same documents, and all counterpart signed documents shall be deemed to be one and the same original instrument.

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first below written.

APPROVED AS TO FORM:

ORANGE COUNTY SANITATION DISTRICT

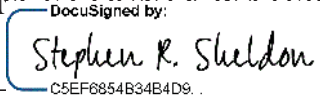
By _____
John B. Withers Date
Chairperson, Board of Directors

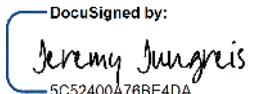
By _____
Bradley R. Hogin
General Counsel,
Orange County Sanitation District

By _____
Kelly Lore Date
Clerk of the Board, Board of Directors

APPROVED AS TO FORM:

ORANGE COUNTY WATER DISTRICT

By  _____ 5/3/2022
DocuSigned by: Stephen R. Sheldon
C5EF6854B34B4D9... Date
Stephen R. Sheldon Board of Directors

By  _____
DocuSigned by: Jeremy Jungreis
5C52400A76BE4DA...
General Counsel

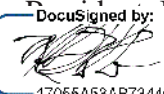
By  _____ 5/3/2022
DocuSigned by: Michael R. Markus
17055A53AB73446... Date
Michael R. Markus, P.E. General Manager

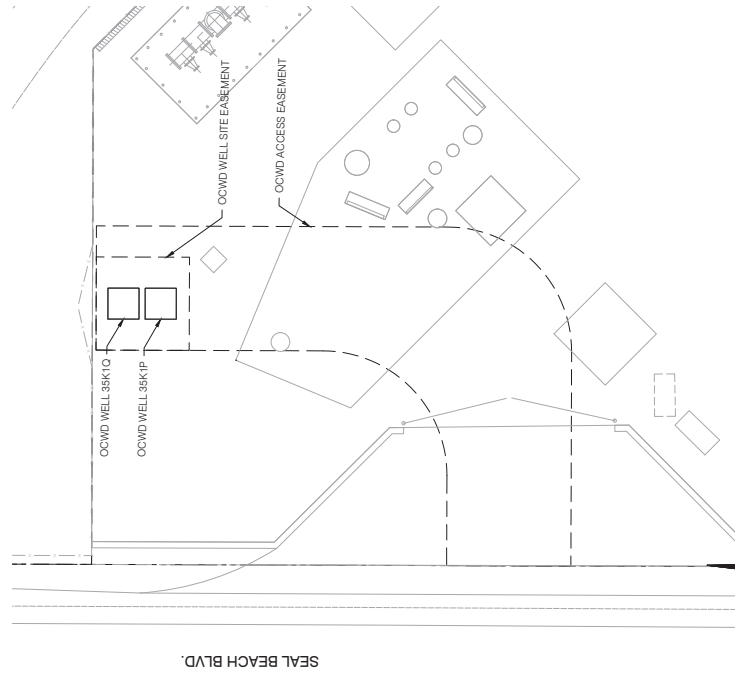
EXHIBIT “A”

Tentative Plans

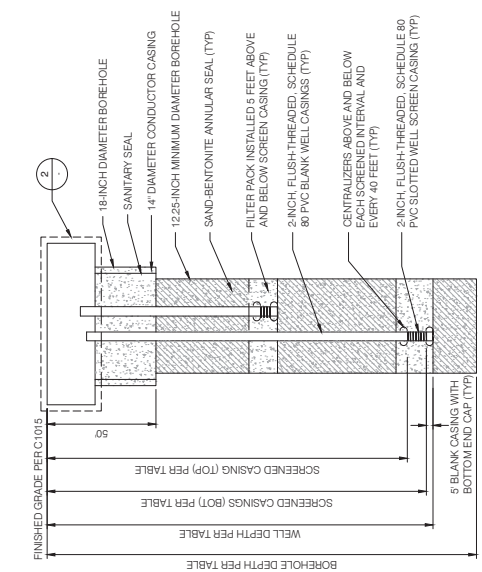
(See attached.)

ANTICIPATED WELL DETAILS

WELL SITE	NESTED WELL ID	AQUIFER	BOREHOLE DEPTH (FT-BGS)	WELL DEPTH (FT-BGS)	SCREENED CASING TOP (FT-BGS)	SCREENED CASING BOT (FT-BGS)
38KIP	OCWD-38K1P1	C	115	90	110	110
	OCWD-38K1P2	B	190	175	130	170
38K10	OCWD-38K1O1	A	405	250	195	245
	OCWD-38K1O2	I	390	390	365	385



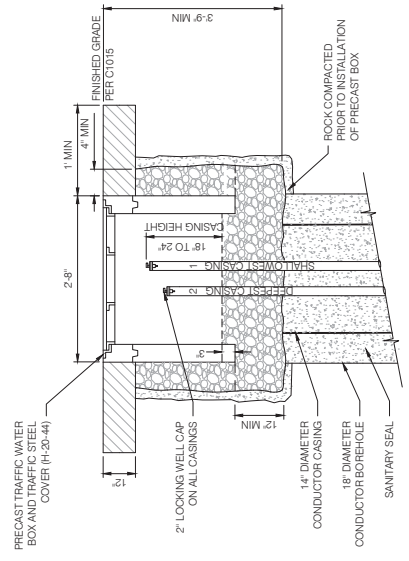
OCWD WELLS PLAN
SCALE: 1" = 10'



DETAIL 1 NOTES:

- CASING, SCREEN, AND BACK-FILL DEPTHS ARE APPROXIMATE. EXACT PLACEMENT OF CASING, SCREEN, AND BACK-FILL WILL BE DETERMINED AFTER THE BOREHOLE HAS BEEN DRILLED AND GEOPHYSICAL LOGS HAVE BEEN EVALUATED.
- NOT ALL CENTRALIZERS ARE DEPICTED.
- WELL SHALL BE CONSTRUCTED IN ACCORDANCE WITH SECTION 02520.

DETAIL 1
SCALE: NONE



DETAIL 2 NOTES:

- STAGGER EACH WELL CASING HEIGHT APPROXIMATELY 2 INCHES.
- CONCRETE SKIRT SHALL SLOPE AWAY FROM THE VAULT.
- WELL CASINGS SHALL BE SPACED EQUIDISTANT APART IN THE 12.25" DIAMETER BOREHOLE.
- WELL CASINGS SHALL BE CENTERED IN PRECAST TRAFFIC WATER BOX.
- PRECAST TRAFFIC WATER BOX SHALL BE 2'-0" X 3'-0" X 3'-0" DEEP. JENSEN PRECAST K2436-FH33-08T OR EQUAL.
- TRAFFIC STEEL COVER, CONTRACTOR SHALL MODIFY COVER WITH SKIDS. JENSEN PRECAST SC2436-TGV OR EQUAL.

DETAIL 2
SCALE: NONE

MARK	DESCRIPTION	DATE	APPR.

DESIGNED BY: John M. ... 10/21
 DRAWN BY: Chris Narvaez 10/21
 CHECKED BY: Antonio Mui XXXX
 DATE CHANGES OR FALSE
 IF NOT 2: SCALE (OCWD090610)



OCOSAN
 ORANGE COUNTY SANITATION DISTRICT

SEAL BEACH
 PUMP STATION REPLACEMENT
 OCWD MONITORING PLAN
 PLAN AND DETAILS

3-67
 DRAWING NO.
C9010
 OF XXX