

LEASE

Water Filling Station
Marsh Creek Road

This lease is dated as of August 1, 2023, and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (“**County**”) and the CONTRA COSTA WATER DISTRICT (“**CCWD**”), a local governmental agency of the State of California.

Recitals

- A. The County is the owner of real property located at 1200 Marsh Creek Road, Clayton, California, having Assessor’s Parcel Number 078-120-011 (the “**Property**”).
- B. Under this lease, the County is leasing to CCWD a portion of the Property that consists of approximately 14,400 square feet of open land on the north side of the Property, identified as “CCWD Water Filling Station” on Exhibit A (the “**Premises**”).
- C. CCWD has installed a water filling station on the Premises. The water filling station is intended to be used by persons who live within the CCWD service area who are not directly connected to a CCWD water pipeline.
- D. The County and CCWD are parties to an existing lease for the Premises dated July 31, 2018, which is being terminated upon the commencement of this lease.

The parties therefore agree as follows:

Agreement

- 1. Lease of Premises. In exchange for the consideration set forth herein, the County hereby leases to CCWD and CCWD hereby leases from the County, the Premises, subject to all easements and encumbrances of record.
- 2. Term. The “**Term**” of this lease is five years, commencing August 1, 2023, and continuing through July 31, 2028. CCWD shall notify County 180 days prior to the expiration of this this lease if they desire to renew the lease. The County reserves the right to not renew the lease.
- 3. Rent. CCWD shall pay rent to County in the amount of \$500 per year. Rent for the 5-year term in the amount of \$2,500 is payable in advance upon the full execution of this lease.
- 4. Use. Except as otherwise provided herein, the Premises may only be used by CCWD for the operation and maintenance of the water filling station.

CCWD may not use the Premises for any other purpose without the prior written consent of the Director of Public Works, or his or her designee. Any use of the Premises other than as described herein without such prior written consent is a default of this lease.

5. Utility Obligations. CCWD shall pay utility providers directly for all utilities used or consumed on the Premises by CCWD, including, but not limited to gas, water, electricity, garbage disposal, storm and sanitary sewer services.
6. Condition of Premises. CCWD is leasing the Premises in an “as is” physical condition with no warranty, express or implied, on the part of the County. CCWD shall maintain the Premises in accordance with Section 7, Maintenance and Repairs.
7. Maintenance and Repairs.
 - a. Utilities. CCWD shall repair any electrical, lighting, water pipeline and plumbing systems that it installs in the Premises and maintain them in good order, condition and repair.
 - b. Exterior Lighting. If a permanent lighting system is installed, CCWD shall maintain it in good order, condition and repair.
 - c. Code Violations. CCWD is responsible for correcting code violations that arise out of CCWD’s use or occupancy of the Premises.
8. Covenant against Liens. CCWD may not permit or suffer any mechanic’s, material man’s, or other lien against the Premises, or the property of which the Premises forms a part, in connection with any labor, materials, or services furnished or claimed to have been furnished. If any such lien is filed against the Premises, or property of which the Premises forms a part, CCWD will cause the same to be discharged.
9. Quiet Enjoyment. Provided CCWD is in compliance with the terms of this lease, the County covenants that CCWD will peaceably and quietly have, hold, and enjoy the Premises during the Term.
10. Assignment and Sublease. CCWD may not assign this lease or sublease the Premises or any part thereof at any time during the Term.
11. Alterations and Additions. CCWD may not make any alterations, erect any additional structures, or make any improvements on the Premises without the prior written consent of the County Representative. In the event CCWD makes alterations or constructs additions that violate the conditions contained in this lease (an **“Unauthorized Addition”**), at the County’s sole discretion, CCWD shall remove any Unauthorized Addition at CCWD’s sole cost and expense. If CCWD is required to remove any Unauthorized Addition, CCWD, at its sole cost and expense, shall restore the Premises to the conditions existing immediately prior to the existence of the Unauthorized Addition, or such other reasonable condition designated by the County in its election. If CCWD is not required to remove any Unauthorized Addition, such Unauthorized Additions shall

remain on and be surrendered with the Premises on expiration or termination of this lease.

12. Insurance.

- a. Liability Insurance. Throughout the Term, CCWD shall maintain in full force and effect, at its sole expense, a comprehensive general liability or commercial general liability insurance program covering bodily injury (including death), personal injury, and property damage. The limits must be not less than one million dollars per occurrence and two million dollars aggregate. The policy must name the County, its officers, agents and employees, individually and collectively, as additional insureds. The liability insurance maintained by CCWD must be primary.
- b. Property Insurance. The County will maintain property insurance coverage on its real property. CCWD has no interest in the proceeds of insurance on the County's real property, improvements, equipment, or fixtures. CCWD shall sign all documents necessary or proper in connection with the settlement of any claim or loss by the County. CCWD shall maintain in full force and effect, at its sole expense, a standard All Risk policy, which may exclude earthquake and flood, to insure its own personal property, contents, improvements and betterments within or on the Premises. The coverage must be for not less than 90% of the actual cash value of the personal property. CCWD shall name the County as an additional insured and loss payee with respect to the improvements and betterments.
- c. Worker's Compensation and Employer's Liability Insurance. CCWD shall maintain in full force and effect, at its sole expense, (i) statutory California Workers' Compensation coverage including a broad form all-states endorsement, and (ii) employer's liability coverage for not less than one million dollars per occurrence for all employees engaged in services or operations at the Premises.
- d. Evidence of Insurance. Within thirty days of execution of this lease, CCWD shall provide to the County, on a form approved by the County, (i) an original copy of a Certificate of Insurance, or (ii) a letter of self-insurance. If a Certificate of Insurance is provided, it must certify that the coverage required by this lease has been obtained and remains in force for the period required by this lease.
- e. Notice of Cancellation or Reduction of Coverage. CCWD shall provide, or shall cause all policies it is required to obtain under the terms of this lease to contain, a provision that the County is to receive written notification of any cancellation or reduction in coverage at least thirty days prior to the effective date of such cancellation or reduction. Any such notification is to be sent to the County in accordance with Section 20 - Notices.

13. Surrender of Premises. On the last day of the Term, or sooner termination of this lease, CCWD shall peaceably and quietly leave and surrender to the County the Premises. Upon the expiration or termination of this lease, CCWD shall, at its sole cost and expenses do the following: (1) remove the fence around the perimeter of the Premises, (2) remove the hydrant and automated fill station system or cap the hydrant, (3) terminate any utility

service under CCWD responsibility, and (4) restore the Premises to the condition that existed immediately prior to the installation of the improvements.

- a. Personal Property. Title to personal property belonging to CCWD will remain in CCWD all times during the Term of this Lease, and CCWD has the right at any time to remove any or all of its personal property from the Premises, provided that upon any such removal, CCWD shall repair, at CCWD's expense, any damage resulting therefrom and leave the Premises in a clean and neat condition.

If CCWD fails to remove any personal property from the Premises within thirty (30) days after the expiration, cancellation, or termination of this Lease, such personal property may be removed by the County at CCWD's expense.

- b. Effectiveness. The provisions of this Section will survive the expiration, cancellation or earlier termination of this lease.
14. Abandonment. CCWD may not vacate or abandon the Premises at any time during the Term. If CCWD abandons, vacates, or surrenders the Premises, or is dispossessed by process of law, or otherwise, the County may deem any personal property belonging to CCWD that remains on the Premises to be abandoned.
 15. Waste, Nuisance. CCWD may not commit, or suffer to be committed, any waste upon the Premises, or any nuisance or other act or thing that may disturb the quiet enjoyment of any other occupant of the neighborhood in which the Premises is located.
 16. Inspection. The County may enter the Premises at any time in an emergency and with 24-hour's notice in a non-emergency to determine that (i) the Premises is being reasonably cared for, (ii) no waste is being made and that all actions affecting the Premises are done in the manner best calculated to preserve the Premises, and (iii) CCWD is in compliance with the terms and conditions of this lease.
 17. Indemnification. CCWD shall indemnify, defend and hold County, its officers, agents and employees harmless from any and all claims, costs and liability, for any damage, injury or death, including without limitation, all consequential damages from any cause whatsoever, to any person or the property of any person arising directly or indirectly from or connected with this lease, CCWD's operations, or CCWD's use or possession of the Premises, save and except claims or litigation arising through the sole negligence or sole willful misconduct of County, its officers or employees, and shall make good to and reimburse County for any expenditures, including reasonable attorneys' fees, County may make by reason of such matters.
 18. Default. The occurrence of any of the following events is a default under this lease:
 - a. CCWD. CCWD's failure to comply with any material term or provision of this lease if such failure is not remedied within thirty days after receipt of a written notice from the County to CCWD specifying the nature of the breach in reasonably sufficient detail (a "**Notice of Default**"). If the required cure of the noticed failure cannot be completed within thirty days, the failure to cure will not be deemed to be a default of

this lease if CCWD has attempted to cure the failure within the thirty-day period and has diligently and continuously attempted to complete the cure as soon as reasonably possible. In no event will the cure period extend beyond the sixty-day period after CCWD's receipt of the Notice of Default.

- b. County. The County's failure to perform any obligation under this lease if the failure is not remedied within thirty days after receipt of a written notice from CCWD to the County specifying the nature of the breach in reasonably sufficient detail. If the required cure of the noticed failure cannot reasonably be completed within thirty days, a default will not be deemed to occur if the County has attempted to cure the failure within the thirty-day period and has diligently and continuously attempted to complete the cure as soon as reasonably possible.

19. Remedies.

- a. The County. Upon the occurrence of a default by CCWD, the County may reenter and repossess the Premises and remove all persons and property from the Premises, after giving CCWD written Notice of Default and in accordance with due process of law.
- b. The Lessee. Upon the occurrence of a default by the County, CCWD may (i) terminate this lease by giving written notice to the County and quit the Premises without further cost or obligation to the County.

20. Notices. Any notice required or permitted under this lease shall be in writing and sent by overnight delivery service or registered or certified mail, postage prepaid and directed as follows:

To Lessor: Contra Costa Water District
 1331 Concord Avenue
 Concord, California 94524
 Attn: Real Property Agent

To County: Contra Costa County
 Public Works Department
 Attn: Principal Real Property Agent
 40 Muir Rd., 2nd Floor
 Martinez, CA 94553

Either party may at any time designate in writing a substitute address for that set forth above and thereafter notices are to be directed to such substituted address. If sent in accordance with this Section, all notices will be deemed effective (i) the next business day, if sent by overnight courier, or (ii) three days after being deposited in the United States Postal system.

21. Successors and Assigns. This lease binds and inures to the benefit of the heirs, successors, and assigns of the parties hereto.

22. Holding Over. In the event CCWD remains in possession of the Premises after the expiration of the Term, such holding over does not constitute a renewal or extension of this lease, but will be construed to be a tenancy from month to month on the same terms and conditions set forth in this lease, except that the monthly rent due and payable hereunder will be One Thousand Four Hundred Forty Dollars (\$1,440) per month, payable monthly in advance on the first day of each month. Rent for any partial month will be prorated at the rate of 1/30 of the applicable monthly rent per day.
23. Time is of the Essence. In fulfilling all terms and conditions of this lease, time is of the essence.
24. Governing Law. The laws of the State of California govern all matters arising out of this lease.
25. Severability. In the event that any provision herein contained is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions of this lease will not in any way be affected or impaired.

[Remainder of Page Intentionally Left Blank]

26. Entire Agreement; Construction; Modification. Neither party has relied on any promise or representation not contained in this lease. All previous conversations, negotiations, and understandings are of no further force or effect. This lease is not to be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. This lease may be modified only by a writing signed by both parties.

The parties are executing this lease as of the date set forth in the introductory paragraph.

COUNTY OF CONTRA COSTA, a
political subdivision of the State of

California

CONTRA COSTA WATER DISTRICT, a
local governmental agency in the State of

California

By: _____
Brian M. Balbas
Director of Public Works

By: _____
Rachel Murphy
General Manager

RECOMMENDED FOR APPROVAL:

By: _____
Jessica L. Dillingham
Principal Real Property Agent

By: _____
Julin Perez
Supervising Real Property Agent

APPROVED AS TO FORM
THOMAS L. GEIGER, COUNTY COUNSEL

By: _____
Kathleen M. Andrus
Deputy County Counsel

G:\realprop\LEASE MANAGEMENT\CLAYTON\MARSH CREEK RD - T00912\LEASES\2023 Renewal\Water Filling Station _2023 Lease
Renewal_final 8.23.23.docx

T00912