



San Dieguito River Park
Joint Powers Authority
18372 Sycamore Creek Road
Escondido, CA 92025
(858) 674-2270 Fax (858) 674-2280
www.sdrp.org

**JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Chair Joe LaCava
San Diego City Council

Vice-Chair Chris Khoury
Citizens Advisory Committee

Brian Pepin
Poway City Council

Dwight Worden
Del Mar City Council

Consuelo Martinez
Escondido City Council

Mami von Wilpert
San Diego City Council

Joel Anderson
Supervisor, County of San Diego

Terra Lawson-Remer
Supervisor, County of San Diego

Jill MacDonald
Solana Beach City Council

Dustin Fuller, Ex Officio
22nd District Agricultural
Association

Shawna Anderson
Executive Director

**SAN DIEGUITO RIVER PARK
JOINT POWERS AUTHORITY
11:00 a.m.
Friday, January 19, 2024
County Administration Center
1600 Pacific Highway, Room 302/303
San Diego**

Speaker slips will be available. Please fill out a slip and give it to the Chair prior to the meeting if you wish to speak about an item on the agenda. The Board may act on any item listed on the Consent or Action Agenda.

Introductions and Announcements

Pledge of Allegiance

Approval of the Minutes of December 8, 2023 (Page 3-7)

Executive Director's Report

CAC Chair's Report

Public Comment

This portion of the agenda provides an opportunity for members of the public to address the Board on items of interest within the jurisdiction of the Board and not appearing on today's agenda. Comments relating to items on today's agenda are to be taken at the time the item is heard. Pursuant to the Brown Act, no action shall be taken by the Board on public comment items.

DISCUSSION/ACTION

1. Board Officer Elections (Chair and Vice Chair) and Appointments (Page 8-10)
2. Approval of City of San Diego License Agreement for Osuna Segment of Coast to Crest Trail (Page 11-40)
3. FY23-24 Q2 Budget Report and Coast Q4 Report (Page 41)
4. 2023 List of Accomplishments and 2024 Priorities (Pages 42-44)

INFORMATION

5. Project Status Updates
 - a. Reach the Beach Fairgrounds Trail and Gateway
 - b. San Dieguito Lagoon Phase II Restoration (aka W-19)
 - c. CTC Trail - East San Pasqual and Sutherland Gaps Project
6. Coordination Reports (oral)
 - a. San Dieguito River Valley Conservancy
 - b. Friends of the San Dieguito River Valley
 - c. Volcan Mountain Foundation
 - d. San Dieguito Lagoon Committee
7. Jurisdictional Status Reports (oral)

An opportunity for the Board members to report on actions taken within their jurisdiction to further the park planning process.

THE NEXT REGULAR JPA MEETING will be February 16, 2024. If you have any questions, please contact Dewanda Vandermost at dewanda@sdrp.org or (858)674-2270

**SAN DIEGUITO RIVER PARK
JOINT POWERS AUTHORITY
Minutes of December 8, 2023**

MEMBERS PRESENT

Joe LaCava - Chair
Chris Khoury – Vice Chair
Brian Pepin
Consuelo Martinez
Dwight Worden

REPRESENTING

City of San Diego District 1
Citizens Advisory Committee
City of Poway
City of Escondido
City of Del Mar

MEMBERS ABSENT

Terra Lawson-Remer
Joel Anderson
Jill MacDonald
Marni von Wilpert
Dustin Fuller

REPRESENTING

County of San Diego Dist. 3
County of San Diego Dist. 2
City of Solana Beach
City of San Diego Dist. 5
22nd Agricultural District, Ex Officio

VISITORS/STAFF PRESENT

Shawna Anderson
Dewanda Vandermost
Wayne Brechtel
Brian Elliot
Lizzy Bendrick
Becca Smith

REPRESENTING

San Dieguito River Park JPA
San Dieguito River Park JPA
San Dieguito River Park JPA, General Counsel
City of San Diego District 1
County Parks & Recreation Department
County of San Diego Dist. 3

Introduction and Announcements:

Chair LaCava convened the meeting at 11:10 a.m. A roll call was taken and a quorum of five board members were present to begin the meeting. Chair LaCava welcomed the new City of Escondido board member, Consuelo Martinez.

Pledge of Allegiance

Approval of the Minutes of October 20, 2023

Board Member Worden moved to approve the minutes and Board Member Pepin seconded the motion. All in favor.

Yes votes: LaCava, Khoury, Pepin, Worden

No votes: None

Absent: Anderson, Lawson-Remer, MacDonald, von Wilpert

Abstain: Martinez

Executive Director's Report

Executive Director Anderson announced that San Dieguito River Park was selected as one of the two charities for the Red Nose Run being held December 9, 2023.

Anderson reported that the launch of SDRP's new website is scheduled for the end of December. One of the benefits of the new website will be the promotion of SDRP's endowment fund.

Executive Director Anderson shared recent events in the park, such as, the W-19 Project restoration grading to open the channel, the JPA Staff Retreat, the Sikes Festive Farmhouse, the volunteer enrichment at the Wolf Center and the Scouts tour to Sikes Adobe. Anderson dedicated her director's report in memory of David Kreitzer.

Board Member Khoury provided details of the December 1, 2023 CAC Meeting presentation and report by Meagan Hickey from San Diego Public Utilities Department about Lake Hodges Dam's current status and future plans.

Board Member Khoury announced the Conservancy's Speaker Series "Connecting Creatures, Climate, and Community" sponsored by SDRVC and invited board members to attend January 3, 2024 where he is presenting "The Allure of the San Dieguito River Valley".

Public Comment – No public comments received.

DISCUSSION/ACTION

1. **FY23-24 Q1 Budget Report and Coast Q3 Report**

Recommendation: Receive the budget report

Executive Director Anderson presented the Q1 report for the FY23-24 budget and Q3 report of the Coast budget. Most of the budget items are on target, with the exception of Office Operation/Maintenance expenses due to the unexpected water well repairs. Board Member Worden questioned the budget for the Habitat Management income and Anderson answered that the Habitat Management funds held in the endowments have not yet been requested.

Anderson explained that the Coast budget is funded in accordance with the Trails Management Agreement with Southern California Edison, and she is currently working with SCE on the calendar year 2024 budget.

The board discussed the future lagoon project endowments and the need to complete an endowment agreement with SANDAG. A recommendation was made to create a board subcommittee when the timing is appropriate and there is more data.

Board Member Pepin made the motion to receive the budget report and Board Member Martinez seconded the motion. All in favor.

Public Comment- no public comment

Yes votes: LaCava, Khoury, Pepin, Worden, Martinez

No votes: None

Absent: Anderson, Lawson-Remer, MacDonald, von Wilpert

Abstain: None

2. **Vehicle Replacements**

Recommendation: Discuss Strategy and Approve Next Steps for Vehicle Replacement.

Executive Director Anderson presented the current need for a replacement vehicle for the park and the future requirements for zero emissions vehicles. She explained the reserve fund balance for vehicle replacement is not enough to purchase a truck.

Anderson reported her plan to obtain dealer quotes for a gas-powered truck and electric truck to replace one of the six trucks in the fleet and will bring them before the board for approval.

Board Member Khoury commented that he is in favor of a zero emissions truck and that the demand for EV vehicles has lessened creating a surplus. He believes the costs of maintenance of an EV truck would be an advantage for the park.

Public Comment- no public comment

Board Member Khoury made the motion to approve the next steps for vehicle replacement and Board Member Worden seconded the motion. All in favor.

Yes votes: LaCava, Khoury, Pepin, Worden, Martinez

No votes: None

Absent: Anderson, Lawson-Remer, MacDonald, von Wilpert

Abstain: None

3. **Fairgrounds Trail and SDRP Gateway**

Recommendation: Support to continue to implement the project

Executive Director Anderson presented a status update on the Western Gateway project at the coast. The Del Mar Foundation funded \$24,000 for the initial design and the JPA was awarded \$1.3 Million from the California state budget by Senator Toni Atkins to construct the project.

Anderson explained the goal of CTC Reach the Beach trail for multi-use. She discussed the feasibility study done by the JPA in 2012 which has a component of a trail along the fairground side which is where the

Western Gateway would be located. She shared design concepts of the future trail improvements and Hubbell designed Western Gateway.

Anderson expressed the importance of claiming the recreational buffer that was set aside by the Del Mar Fairgrounds designated for public use and has not yet been used.

Board Member Martinez inquired about the Del Mar Fairgrounds and if there is communication with their board. Executive Director Anderson answered that she is on their government and community relations committee for the 22nd Ag District.

Board Member Worden suggested that when timing was appropriate, to ask the California Coastal Commission if horses would be allowed west of the freeway to access the trail.

Board Member Pepin asked that the board minutes reflect the topic of equestrian use to reaffirm the Reach the Beach Trail designation as multi-use for hikers, cyclists, and equestrians.

Public Comment- no public comment

Board Member Worden made the motion to approve support to continue to implement the project, and Board Member Pepin seconded the motion. All in favor.

Yes votes: LaCava, Khoury, Pepin, Worden, Martinez

No votes: None

Absent: Anderson, Lawson-Remer, MacDonald, von Wilpert

Abstain: None

INFORMATION

4. Project Status Updates

- a. **Reach the Beach Fairgrounds Trail** –Under Action Item #3.
- b. **San Dieguito Lagoon Phase II Restoration (aka W-19)** – Executive Director Anderson will be sending an invite for the W19 river breaching event when the exact date is determined.
- c. **CTC Trail – East San Pasqual and Sutherland Gaps Project** – Executive Director Anderson is continuing to work with JPA's consultants on these projects. Early next year alignment maps will be presented to the CAC for feedback.

5. Coordination Reports (oral)

- a. **San Dieguito River Valley Conservancy**- no report
- b. **Friends of the San Dieguito River Valley**- no report
- c. **Volcan Mountain Foundation** – no report
- d. **San Dieguito Lagoon Committee**- no report

6. **Jurisdictional Status Reports** – Board Member Worden updated the status of the Osprey nest on an SDG&E power pole in the lagoon. He also mentioned he received a letter from Whispering Palms/Surf Cup that he will be distributing to the board members. Worden also suggested scheduling a budget committee meeting soon. Chair Member LaCava thanked Executive Director Anderson for hosting the W19 tour.

Chair LaCava adjourned the meeting at 12:23 p.m.

DRAFT

Agenda Item 1

January 19, 2024

TO: JPA Board of Directors
FROM: Staff
SUBJECT: 2024 Election of Officers and Committee Appointments

RECOMMENDATION:

Board motion and vote to elect Chair and Vice-Chair for 2024 term and appoint board members to serve on the Budget and Reach the Beach ad-hoc committees.

Background and Board Officers

JPA Policy P95-1 provides direction to select officers of the board as well as committee appointments (Attachment 1). Elections are held annually in January for Chair and Vice Chair for one-year terms. The policy includes a procedure for a nominating committee although in recent years the board has elected to take nominations from the floor in lieu of a committee.

Per P95-1, the Vice Chair customarily moves into the Chair position the following year although this is not mandatory and board members have previously served as Chair for an additional term. Policy P95-1 does not prohibit board members from serving additional terms.

Ad-Hoc Committees

The JPA's currently active ad-hoc committee is the Budget Committee. Board members Worden, LaCava, County Alternate Greg Kazmer, and Fuller currently serve on the Budget Committee. It is anticipated that this committee will meet with the Executive Director in January (scheduled for the 31st) and March and as needed to continue discussions on the JPA's financial sustainability plans and develop the FY24-25 budget for the full board's consideration before June 2024. Current committee members may continue to serve on a committee or be replaced by other members, so long as a quorum is avoided.

Your board appointed a Reach the Beach ad-hoc committee in March 2022, but only two remaining committee members are current JPA board members (Worden and Fuller). It is recommended that your Board reappoint members on this committee so they can meet this year.

Respectfully submitted,

Shawna Anderson
Executive Director

Attachment 1: JPA Policy P95-1, Election of Board Officers

POLICY NO. P95 - 1

ADOPTION DATE: 3/17/95

**POLICY OF THE BOARD OF DIRECTORS OF THE SAN DIEGUI TO RIVER
VALLEY REGIONAL OPEN SPACE PARK
JOINT POWERS AUTHORITY**

ELECTION OF JPA BOARD OFFICERS

PURPOSE

The San Dieguito River Park Joint Powers Authority (JPA) was formed to create, preserve and enhance the San Dieguito River Valley Regional Open Space Park (Park). The Joint Powers Agreement provides for the Board to select its officers from among the members. The purpose of this policy is to provide direction on the selection of officers.

POLICY

The success of the JPA in fulfilling its functions as authorized by its member agencies and in carrying out its programs to serve the people of San Diego County is in the hands of its Boardmembers and most importantly its officers. Therefore, it is the policy of this Board to select officers who are enthusiastically supportive, willing and able to promote the San Dieguito River Park and its goals and objectives, and to implement the will of the Board.

OFFICERS/TERMS

The Joint Powers Authority officers shall consist of a Chair and a Vice-Chair who will serve one year terms. In January of each year, customarily the Vice-Chair from the previous year will assume the Chair's office. At any time during the year should the Chair resign or be unable to serve in the function of Chair, the Vice-Chair will assume the Chairmanship. An effort shall be made to rotate the Chair and Vice-Chair positions among the various jurisdictions.

NOMINATING COMMITTEE

A nominating committee will be appointed by the Chair in October of each calendar year. The nominating committee shall present to the Board of Directors for their consideration at the next JPA meeting a proposed slate which includes nominations for the two officers and membership on the Land Use Committee, Acquisition and Financing Strategies Committee and the Budget/Administration/Policy Committee. These committees will meet as needed to accomplish the business of the JPA. The Board may accept the recommendations of the nominating committee or amend them by a majority vote.

REMOVAL FROM OFFICE

An officer of the San Dieguito River Park JPA may be removed by a majority vote of the Board of Directors.

Agenda Item 2

January 19, 2024

TO: JPA Board

FROM: Staff

SUBJECT: Approval of License Agreement for Osuna Segment of Coast to Crest Trail

RECOMMENDATION:

Approve and authorize Executive Director to sign license agreement for Osuna Segment of the Coast to Crest Trail.

SUMMARY:

A license agreement is required by the City of San Diego to authorize the JPA to construct and operate the Osuna segment of Coast to Crest Trail on city-owned land (Attachment 1). Located in the Fairbanks Ranch area, the one-mile-long Osuna trail and trail bridge spanning the San Dieguito River will connect the Surf Cup segment of CTC Trail to the future CTC pathway at San Dieguito Road representing the 50th mile of CTC Trail. Approximately 0.3 miles of the trail is located on land owned by the City of San Diego Parks Department and the remaining 0.6 mile is on a private parcel in unincorporated San Diego County.

SITUATION:

License Agreement

The license agreement terms and conditions were negotiated between the JPA's Executive Director and General Counsel and staff from the City Real Estate Assets and Parks departments. The agreement authorizes the JPA to construct, maintain, and operate the trail for a term of 25 years (with a 10-year renewal) precedent on JPA obtaining a site development permit from the City. Liability and insurance coverage would be provided by the JPA with the City as an additional insured (Exhibit D of license agreement). The license fee is waived for a public benefit. The agreement must also be approved by the City's Land Use & Housing Committee (scheduled March 21, 2024) and City Council (not docketed).

Project Status

The JPA applied for a site development permit in November 2021, which is nearing the final stages of review. The SDP requires approval by the City Council (not scheduled). Other permits from resources agencies are also in process. The JPA approved a Mitigated

Agenda Item 2

January 19, 2024

Negative Declaration and completed the CEQA process in July 2023. The trail is partly located within an existing recycled waterline easement owned by the Olivenhain Municipal Water District. JPA and OMWD staff are in the process of finalizing a draft Joint Use Agreement (JUA) for the trail and pipeline that will require JPA Board review and approval.

Remaining project tasks include final bridge engineering and permits, contractor bid process, and construction. Construction is anticipated to take two years and must be completed by 2027 per the grant deadline.

FINANCIAL IMPACT:

As reported at previous board meetings, the project is funded by grants and donations including a state Trails and Greenways grant, a state budget award, private donations, and a JPA cash match. Additional project financing by the JPA is not anticipated. However, once trail construction is complete the JPA will be responsible for its maintenance in accordance with the JPA Trails Maintenance Plan and Standards (2021).

CAC RECOMMENDATION:

The CAC is in full support of the Osuna Trail and JPA staff has kept the CAC regularly informed on its status. The CAC's Trails Committee was involved in trail planning and design.

ALTERNATIVES:

1. Approve license agreement as written.
2. Make changes to the license agreement terms and conditions.
3. Do not approve the agreement and give staff other direction.

RECOMMENDATION:

Approval and authorize Executive Director to sign license agreement for Osuna Segment of the Coast to Crest Trail.

Respectfully Submitted,

Shawna Anderson
Executive Director

Attachment 1: Draft License Agreement

CITY OF SAN DIEGO

LICENSE AGREEMENT

**(Osuna Segment of Coast to Crest Trail Project –
San Dieguito River Park Joint Powers Authority)**

This LICENSE AGREEMENT (this “**Agreement**”) is entered into by and between the SAN DIEGUITO RIVER PARK JOINT POWERS AUTHORITY, a California joint powers authority (“**Licensee**”), and THE CITY OF SAN DIEGO, a California municipal corporation (“**City**”), as of the date this Agreement is approved as to form by an attorney from the Office of the San Diego City Attorney’s Office as shown on the signature page to this Agreement (“**Effective Date**”).

RECITALS

- A. City is a party to that certain Joint Exercise of Powers Agreement between the County of San Diego and the Cities of Del Mar, Escondido, Poway, San Diego and Solana Beach creating the San Dieguito River Valley Regional Open Space Park Joint Powers Authority, which was amended and restated on or about July 15, 2015 (as amended and restated, the “**JEPA**”). Any capitalized term used but not defined in this Agreement shall have the meaning ascribed to them in the JEPA, to the extent the term is defined in the JEPA.
- B. The JEPA created Licensee (referred to in the JEPA as the “**JPA**”), pursuant to Section 6507 of the California Government Code, an entity separate and apart from the public agencies that are party to the JEPA (together, the “**Public Agencies**”) but comprised of two or more member Public Agencies.
- C. Licensee’s purpose under the JEPA is to manifest the joint exercise of the Public Agencies’ powers “to coordinate, to acquire, plan, design, improve, manage, operate and maintain” the San Dieguito River Valley Regional Open Space Park (“**Park**”) for the benefit of the public. *See* JEPA § 1 (Purpose). More specifically, the Focused Planning Area (“**FPA**”), the regional park planning area for the Park, “is the area where planning and acquisition efforts for the Park are to be directed.” *See* JEPA, Recital ¶ B.
- D. Under the JEPA, the Public Agencies (including the City) have agreed that “[o]ne of the JPA’s goals is to create a multi-use trail system for hikers, bicyclists and horseback riders that will extend a distance of approximately 71 miles from the ocean at Del Mar to the San Dieguito River’s source on Volcan Mountain, just north of Julian” (“**Coast to Crest Trail**” or the “**Trail**”). *See* JEPA § 13(c). The JEPA recognizes that Public Agencies (including the City) “own lands ... within the [P]ark boundary that include Coast to Crest Trail segments” and that “the JPA may pursue grant funding to procure access permits, manage and maintain the trails located on Public Agencies’ lands.” *Id.* Finally, while the responsibility for securing public access permits for the Trail rests with the JPA, the Public Agencies (including the City) have agreed to “work cooperatively and in good faith with the JPA staff to issue public access permits [like this Agreement] acceptable to the Public Agencies as it applies to their property.” *Id.* Relevant to this Agreement, the JPA seeks City’s permission to construct, operate, and maintain a portion of the Trail known as the “Osuna Segment” which is on City-owned land.

- E. In October 2019, Licensee applied for and (in March 2021) was awarded a California Natural Resources Agency Recreational Trails and Greenways Grant to design and construct a portion of the Coast to Crest Trail commonly known as the “Osuna Segment.” In September 2023, Licensee was awarded additional funding for project construction from the California state budget.
- F. In order to construct the Trail, besides this Agreement, Licensee must also obtain a Site Development Permit (“SDP”) from City. Licensee has submitted an application to obtain the SDP (“Osuna Segment of the CTC, PRJ 1049410”), and it is anticipated by the parties that the effective date of the SDP (“SDP Effective Date”) will be after the Effective Date of this Agreement. Between the Effective Date of this Agreement and the SDP Effective Date, Licensee acknowledges that it may enter the License Area but may not conduct any activities that are regulated by the SDP (*e.g.*, grading), even if permitted by this Agreement.

IN CONSIDERATION OF THE RESPECTIVE PROMISES OF LICENSEE AND CITY SET FORTH IN THIS AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE ACKNOWLEDGED, LICENSEE AND CITY AGREE AS FOLLOWS:

1. PURPOSE. City owns certain real property in the City of San Diego specifically defined in Section 39 of **EXHIBIT A** attached to this Agreement, as the “Property.” Licensee and City desire to enter into this Agreement to provide Licensee certain rights to construct, operate, and maintain the Osuna Segment of the Coast to Crest Trail within the Property (the “License Area” (defined in Section 24 of **EXHIBIT A**)), pursuant to the terms and conditions set forth below (the “Permitted Use” (further defined in Section 5.1 below)).

2. DEFINITIONS. All defined terms or words indicated by initial capitalization in this Agreement and not specifically defined in the main body of this Agreement are defined in **EXHIBIT A** attached to this Agreement.

3. LICENSE.

3.1 License Area. Subject to the terms and conditions of this Agreement, as of the Effective Date, City licenses, permits, and authorizes Licensee to use the License Area on a non-exclusive basis for the Permitted Use.

3.2 Property’s Other Uses. The Property is leased to Bay Club Fairbanks Ranch (Bay Club) under that certain Percentage Lease dated December 6, 1982, on file in the Office of the San Diego City Clerk as Document No. RR-257594-1, as assigned to Bay Club pursuant to that certain Consent to Assignment and Agreement, on file in the Office of the San Diego City Clerk as Document No. RR-310421-1, and as amended by that certain First Amendment to Percentage Lease, on file in the Office of the San Diego City Clerk as Document No. RR-310421-2. The Permitted Use may not interfere with the Bay Club or City’s use of the Property (collectively “Other Uses”). Throughout the Term, subject to the terms and conditions of this Agreement, the License Area shall accommodate the Permitted Use to the extent the Permitted Use does not interfere with the Other Uses, including any disruption of safe access to City facilities or adverse impact on the cost of maintaining City facilities. If City determines that the Permitted Use interferes with the Other Uses, City shall Notify Licensee and Licensee shall have forty-eight (48)

hours or some other mutually agreed upon reasonable amount of time, to eliminate the interference with the Other Uses.

3.3 Personal Rights; No Transfers. The licenses, permits and authorizations provided by this Agreement are personal to Licensee. Licensee shall not have any right to make or allow any Transfer without the prior written consent of City, which may be given or withheld in the City's sole and absolute discretion. Licensee acknowledges and agrees that, under the circumstances that this Agreement is entered into by City and Licensee and the public nature of the Property, the restrictions in this Agreement on Transfers are reasonable.

3.4 No Limitation on Other City Use. Nothing contained in this Agreement is intended to limit, restrict, or prohibit City from entering into future agreements with other Persons regarding use of the Property, as long as such other uses do not materially interfere with the Permitted Use on the License Area.

3.5 No Property Estate or Interest Conveyed. Notwithstanding any provision of this Agreement to the contrary, City and Licensee do not intend to convey any estate, easement, or irrevocable interest in real or personal property between them under this Agreement. Nothing in this Agreement shall be construed or interpreted as a conveyance of any estate, easement, or irrevocable interest in any real or personal property. If this Agreement or any provision of this Agreement is finally (after all appeals) construed or interpreted by a court of competent jurisdiction as conveying an estate, easement, or irrevocable interest in real or personal property between City and Licensee, then the provision(s) of this Agreement interpreted as conveying any estate, easement, or irrevocable interest in real or personal property between City and Licensee shall automatically be null and void, without further action by or Notice to City or Licensee.

3.6 Noise. Licensee shall not use or permit the use of the License Area in any manner that creates or maintains any noise or sound violating SDMC Chapter 5, Article 9.5.

3.7 Nuisance. Licensee shall not create or allow a nuisance, as defined in State Civil Code section 3479, or a violation of Law on the License Area.

3.8 **ACCEPTANCE OF PROPERTY IN AS-IS CONDITION.** LICENSEE ACCEPTS ALL PHYSICAL CONDITIONS OF THE PROPERTY, AS OF THE EFFECTIVE DATE, AND RELEASES CITY FROM ALL LIABILITY WHATSOEVER FOR ALL KNOWN OR UNKNOWN CONDITIONS OF THE PROPERTY. LICENSEE SHALL ENTER THE PROPERTY FOR THE PERMITTED USE UNDER THIS AGREEMENT, IN THE PROPERTY'S "AS IS," "WHERE IS" AND "SUBJECT TO ALL FAULTS" CONDITION, AS OF THE EFFECTIVE DATE. LICENSEE ACKNOWLEDGES AND AGREES THAT IT IS RELYING SOLELY UPON ITS OWN KNOWLEDGE OR INVESTIGATION OF THE PROPERTY, AS IT DEEMS APPROPRIATE. LICENSEE IS NOT RELYING ON ANY STATEMENT OR REPRESENTATION BY ANY CITY PARTY RELATING TO THE CONDITION OF THE PROPERTY. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS SECTION 3.8, CITY MAKES NO REPRESENTATION OR WARRANTY AS TO THE PHYSICAL CONDITION OF THE PROPERTY OR WHETHER THE PROPERTY PRESENTLY COMPLIES WITH ANY LAW. WITHOUT LIMITING THE FOREGOING PROVISIONS OF THIS SECTION 3.8, LICENSEE, ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS, WAIVES AND RELEASES CITY AND ITS SUCCESSORS AND ASSIGNS FROM ALL COSTS OR EXPENSES WHATSOEVER (INCLUDING LEGAL

COSTS), WHETHER DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, ARISING FROM OR RELATING TO THE PHYSICAL CONDITION OF THE PROPERTY OR COMPLIANCE OF THE PROPERTY WITH ANY LAW APPLICABLE TO THE PROPERTY. LICENSEE EXPRESSLY WAIVES ALL RIGHTS OR BENEFITS AVAILABLE TO IT WITH RESPECT TO THE RELEASES CONTAINED IN THIS SECTION 3.8 UNDER ANY PROVISION OF APPLICABLE LAW PROVIDING THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY, INCLUDING STATE CIVIL CODE SECTION 1542. THE PROVISIONS OF THIS SECTION 3.8 SHALL SURVIVE THE TERMINATION DATE.

4. LICENSE FEE. License Fee is hereby waived because the Licensee's Permitted Use provides a public benefit.

5. PERMITTED USE.

5.1 Permitted Use. The construction, operation, and maintenance of a portion of the Coast to Crest Trail commonly known as the "Osuna Segment" within the Property as shown on **EXHIBIT C**. Construction includes formation and installation of a trail (the "Trail") and bridge (the "Bridge"); habitat restoration; and installation of associated signage and fencing. Operation includes managing and maintaining the Trail, the Bridge, and associated improvements for public use.

5.2 Approvals. Licensee shall not undertake the Permitted Use on the License Area without first obtaining all necessary Approvals for the Permitted Use, including but not limited to the SDP. In obtaining each necessary Approval for the Permitted Use on the License Area, Licensee shall inform the applicable Government in writing that the Property is City-owned. Licensee shall promptly deliver to City documentary evidence of all Approvals obtained by Licensee regarding the Permitted Use.

5.3 Protection Against Claims or Liens. IF A CLAIM OR LIEN IS RECORDED OR ASSERTED AGAINST THE PROPERTY OR THE CITY FOR MATERIAL OR EQUIPMENT SUPPLIED TO OR LABOR OR SERVICES PERFORMED, DIRECTLY OR INDIRECTLY, FOR LICENSEE OR A CONTRACTOR OF LICENSEE RELATING TO WORK ON THE PROPERTY, LICENSEE SHALL SATISFY AND DISCHARGE SUCH CLAIM OR LIEN, AT THE SOLE COST AND EXPENSE OF LICENSEE, WITHIN TEN (10) DAYS FOLLOWING NOTICE OF THE EXISTENCE OR ASSERTION OF SUCH CLAIM OR LIEN. CITY SHALL NOT BE LIABLE FOR ANY SERVICES, LABOR, MATERIAL, OR EQUIPMENT FURNISHED OR TO BE FURNISHED TO LICENSEE OR LICENSEE'S CONTRACTOR(S) UPON CREDIT AND NO MECHANIC'S OR OTHER LIEN FOR ANY SERVICES, LABOR, MATERIAL, OR EQUIPMENT SHALL ATTACH TO OR AFFECT THE PROPERTY. NOTHING IN THIS AGREEMENT SHALL BE DEEMED OR CONSTRUED IN ANY WAY TO CONSTITUTE CITY'S CONSENT OR REQUEST, EXPRESS OR IMPLIED, BY INFERENCE OR OTHERWISE, TO ANY CONTRACTOR, SUBCONTRACTOR, PROFESSIONAL, LABORER, EQUIPMENT, OR MATERIAL SUPPLIER FOR THE PERFORMANCE OF ANY SERVICE OR LABOR OR THE FURNISHING OF ANY MATERIAL OR EQUIPMENT FOR THE BENEFIT OF CITY OR THE PROPERTY, NOR AS

GIVING LICENSEE ANY RIGHT, POWER OR AUTHORITY TO CONTRACT FOR, OR PERMIT THE RENDERING OF, ANY SERVICES OR LABOR, OR THE FURNISHING OF ANY MATERIAL OR EQUIPMENT THAT WOULD GIVE RISE TO THE FILING OF ANY CLAIM OR LIEN AGAINST CITY OR THE PROPERTY.

5.4 No Liens Against Public Property. LICENSEE ACKNOWLEDGES AND AGREES THAT ON THE EFFECTIVE DATE THE PROPERTY IS OWNED BY CITY, WHICH IS A PUBLIC ENTITY, AND THE PROPERTY IS NOT SUBJECT TO THE IMPOSITION OF MECHANIC'S LIENS OR ANY OTHER LIENS IN FAVOR OF PROVIDERS OF SERVICES, LABOR, MATERIAL, OR EQUIPMENT ON OR TO THE PROPERTY. LICENSEE FURTHER AGREES TO INFORM EACH PROVIDER OF SERVICES, LABOR, MATERIAL, OR EQUIPMENT ON OR TO THE PROPERTY HIRED BY OR FOR THE BENEFIT OF ONE OR MORE LICENSEE PARTIES OF SUCH FACT AND THAT CITY AND THE PROPERTY ARE NOT RESPONSIBLE FOR PAYMENT OF ANY CLAIMS BY ANY SUCH PROVIDERS OF SERVICES, LABOR, MATERIAL, OR EQUIPMENT.

5.5 Signs. Any banner, pennant, flag, poster, sign, decoration, marquee, awning, or similar device or advertising (each, a "**Sign**") that Licensee installs or places on the License Area will be maintained by Licensee in good, clean, and operating condition during the Term. Licensee will, upon City's request, remove any Sign placed by Licensee from the License Area on or before the Termination Date and will repair all damage caused by placement, installation, or removal of Signs, all at Licensee's sole cost and expense. Licensee shall comply with all Laws requiring the posting of Signs on the License Area. If any unauthorized Sign is found on the License Area, Licensee shall remove the Sign at Licensee's sole cost and expense within twenty-four (24) hours after Notice from City requesting the removal. If Licensee does not remove an unauthorized Sign within twenty-four (24) hours after Notice from City requesting the removal, City may enter the License Area and remove the Sign at Licensee's sole cost and expense. If City performs work required of Licensee under this Section 5.4, Licensee shall reimburse City for all costs and expenses reasonably incurred by City in performing such work (including the costs of City's staff time, administrative overhead, and Legal Costs), within thirty (30) days after Notice to Licensee of such costs. All amounts reimbursable to City by Licensee under this Section 5.4 that are not paid within thirty (30) days after Notice to Licensee of the amount shall accrue Default Interest until paid.

5.6 Deliveries to City. If requested by City, Licensee shall provide City with a copy of all reports, analyses, findings, and conclusions resulting from the Permitted Use, which may be reasonably redacted for confidentiality purposes.

5.7 Costs. Licensee shall pay all costs and expenses related to the Permitted Use.

5.8 Security and Safety. Licensee shall be solely responsible for the security and safety of the License Area. Licensee shall be responsible for the cleanup and securing of the License Area disturbed by Licensee, as appropriate, immediately following each day's work to ensure the daily security and safety of the License Area. In conducting the Permitted Use, Licensee shall comply with all Laws, at Licensee's sole cost and expense, with respect to maintaining the License Area in a safe and secure manner during the Term.

5.9 City Work. City reserves the right to perform work on the License Area at any time. If City intends to perform work on the License Area, City shall give Licensee at least forty-eight (48) hours' Notice prior to commencing the work (except in the event of an emergency, in which case, no prior Notice is required). Licensee shall comply with all safety instructions issued by City to ensure the safety of City personnel or contractors performing work on the License Area.

5.10 Inspection. City may, at any time, for any reason or no reason, without any obligation to do so, enter the License Area for the purposes of inspecting the License Area and the Permitted Use conducted on the License Area for compliance with this Agreement. Licensee shall make a Licensee representative available to be present at any City inspection under this Section 5.10 on, at least, 48 hours' advance Notice from City; provided, however, the presence of a Licensee representative is not required for City to exercise its inspection rights under this Section 5.10.

5.11 Utilities. Licensee shall order, obtain, install, and pay for all utilities, including installation and service charges, required or desired for the Permitted Use. Utilities shall be temporary and constructed and located in accordance with plans approved by City, in City's sole and absolute discretion, before any utility construction or installation commences.

5.12 Superior Interests. This Agreement is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases, licenses, easements, or rights-of-way pertaining to the Property existing as of the Effective Date, whether or not of record. Licensee shall obtain all licenses, permits, or agreements required from Third Persons holding a superior interest to allow the Permitted Use on the License Area in compliance with all such superior interests. If the Permitted Use is or becomes inconsistent or incompatible with a preexisting, superior interest, Licensee shall take all action and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.

5.13 Vehicular Traffic. All vehicular traffic shall be confined to concrete, asphalt or decomposed aggregate surfaces unless otherwise approved in writing by City, in City's sole and absolute discretion, prior to the commencement of the Permitted Use.

5.14 [RESERVED.].

5.15 Contractors. Licensee shall, upon City's written request, provide City with a list of all contractors and subcontractors that will perform any part of the Permitted Use, including name, address, email, fax, and phone number. All work requiring a licensed contractor under the State Contractors' State License Law (State Business & Professions Code sections 7000-7191) shall be done by contractors licensed by the State.

5.16 [Reserved].

6. LICENSEE INSURANCE. Licensee shall maintain, to protect the City Parties against all insurable Claims arising from or relating to this Agreement, the License Area, or the Permitted Use, at the sole cost and expense of Licensee, all the insurance coverage required in **EXHIBIT D** attached to this Agreement.

7. WASTE OR DAMAGE. Licensee shall immediately Notify City of any waste, casualty, or damage to the License Area or other areas of the Property of which Licensee becomes aware. Licensee shall not commit, or allow to be committed, any waste, casualty, or damage to property

or injury to person on or around the License Area or other parts of the Property. If waste, casualty, or damage to the Property arises from the Permitted Use, action by a Licensee Party, or failure to act by a Licensee Party that had a duty to act, at City's election, in City's sole and absolute discretion, Licensee shall make, or cause to be made, full repair of the waste, casualty, or damage and restore the Property to its condition existing immediately prior to the waste, casualty, or damage. Licensee shall commence preliminary steps toward restoration of the Property as soon as practicable, but no later than thirty (30) days after the date the waste, casualty, or damage occurs. Licensee shall complete all required repairs or restoration within ninety (90) days after the date the waste, casualty, or damage occurs. Licensee must obtain all Approvals required for repair or restoration of all waste, casualty, or damage to the Property. Following the occurrence of any casualty that materially restricts use of the License Area or access to the License Area for the Permitted Use for more than thirty (30) days, City or Licensee may terminate this Agreement by seven (7) days' Notice to the other Party. This Section 7 shall survive the Termination Date.

8. ENVIRONMENTAL CONDITIONS. Licensee shall not cause or permit any Environmental Condition. If Licensee discovers or becomes aware of an Environmental Condition, Licensee shall Notify City of such Environmental Condition as soon as possible, but in all cases within twenty-four (24) hours following the Licensee becoming aware of such Environmental Condition.

8.1 Remediation. If an Environmental Condition occurs, Licensee shall remediate the Environmental Condition in accordance with Law to allow all uses of the Property permitted by Law immediately before the Environmental Condition is discovered, at Licensee's sole cost and expense. If Licensee knows or has reasonable cause to believe that an Environmental Condition is an imminent danger to public health and safety, Licensee shall take all actions necessary to alleviate the imminent danger, at Licensee's sole cost and expense.

8.2 Removal. If a Licensee Party stores, utilizes, generates, or otherwise brings Hazardous Substances onto the Property in accordance with Law, Licensee shall remove all such Hazardous Substances from the Property prior to the Termination Date and provide City with documentation demonstrating the legal removal and disposal of the Hazardous Substances. Licensee shall be responsible for all costs incurred by City to remove or dispose of any Hazardous Substances not removed from the Property by Licensee in accordance with this Section 8.2.

8.3 Reports. Licensee shall deliver a written report describing the circumstances of each Environmental Condition in reasonable detail to City within three (3) days after Notifying City of the Environmental Condition. Licensee shall also submit all required reports relating to the Environmental Condition to other Governments as required by Law.

8.4 Environmental Assessment. Upon reasonable cause to believe that an Environmental Condition has occurred, City may cause an environmental assessment of the Property to be performed by a professional environmental consultant registered with the State as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be performed at Licensee's sole cost and expense. Licensee shall reimburse City for all costs and expenses reasonably incurred by City in performing the environmental assessment within fifteen (15) days after Notice to Licensee of the amount of such costs and expenses. Any amount reimbursable to City by Licensee under this Section 8.4 that is not paid within fifteen (15) days after Notice to Licensee of such amount, shall accrue Default Interest until paid.

9. COMPLIANCE WITH LAW. The Permitted Use shall comply with all Laws, at Licensee's sole cost and expense. Licensee shall comply with all notices, orders, directives, or the like issued by City or any other Government under the authority of current or future Law.

10. COMPLIANCE WITH CITY STANDARD CONTRACT PROVISIONS. In entering the License Area or performing the Permitted Use, all under this Agreement, Licensee shall comply with all City standard contract provisions set forth in **EXHIBIT E** attached to this Agreement.

11. INDEMNIFICATION.

11.1 Licensee Indemnity Obligations. In addition to Licensee's obligations to Indemnify the City Parties under other provisions of this Agreement, Licensee shall Indemnify the City Parties against all Claims arising from: (a) Licensee's use of the License Area; (b) this Agreement; (c) personal injury (including death) or property damage (to property of Licensee or any other Person) occurring on the License Area or adjoining real property; (d) personal injury (including death) or property damage resulting from Licensee's use of the License Area; (e) a wrongful intentional act or negligence of one or more of the Licensee Parties; (f) strict liability relating to Licensee's use of the License Area; (g) all applications for Approvals made by or on behalf of one or more Licensee Parties; (h) all agreements that one or more Licensee Parties makes with a Third Person regarding this Agreement or the License Area; (i) services, labor, material, or equipment supplied to, for, on behalf of, or at the request of one or more Licensee Parties; (j) a workers' compensation claim by one or more employees or contractors of one or more Licensee Parties; or (k) an Environmental Condition occurring on or after the Effective Date. Notwithstanding anything to the contrary in this Agreement, Licensee's obligations to Indemnify the City Parties excludes Claims based upon the willful misconduct or sole negligence of a City Party.

11.2 Independence of Insurance and Indemnity Obligations. Licensee's obligations to Indemnify the City Parties under this Agreement shall not be construed or interpreted as in any way restricting, limiting, or modifying Licensee's insurance or other obligations under this Agreement. Licensee's obligations to Indemnify the City Parties under this Agreement are independent of Licensee's insurance and other obligations under this Agreement. Licensee's compliance with its insurance obligations and other obligations under this Agreement shall not in any way restrict, limit, or modify Licensee's obligations to Indemnify the City Parties under this Agreement and are independent of Licensee's obligations to Indemnify the City Parties and other obligations under this Agreement.

11.3 Survival of Indemnification Obligations. Licensee's obligations to Indemnify the City Parties under this Agreement shall survive the Termination Date, until all actual or prospective Claims subject to Licensee's obligations to Indemnify the City Parties under this Agreement are fully, finally, absolutely, and completely barred by applicable statutes of limitations.

11.4 Indemnification Procedures. Wherever this Agreement requires Licensee to Indemnify the City Parties:

11.4.1 *Notice.* The affected City Parties shall Notify Licensee of the Claim within a reasonable time.

11.4.2 *Selection of Counsel.* Licensee shall select counsel reasonably acceptable to City's City Council. Even though Licensee shall defend the Claim, the affected City Parties may, at their respective options, engage separate legal counsel, at Licensee's expense, to advise them regarding the Claim and their defense. The affected City Parties' separate legal counsel(s) may attend all proceedings and meetings. Licensee's legal counsel shall actively consult with the City Parties' separate legal counsel, subject to applicable conflict of interest and privileged communication limitations.

11.4.3 *Cooperation.* The affected City Parties shall reasonably cooperate with Licensee's defense of the City Parties.

11.4.4 *Settlement.* Licensee may only settle a Claim with the prior written consent of the affected City Parties, in their respective sole and absolute discretion.

11.5 Immediate Duty to Defend. The duty to defend that is within Licensee's obligations to Indemnify the City Parties under this Agreement includes Claims for which the City Parties may be liable without fault or strictly liable and applies regardless of whether the issues of negligence, liability, fault, default, or other obligation on the part of Licensee or the City Parties have been determined. The duty to defend applies immediately, regardless of whether the City Parties have paid any sums or incurred any detriment arising out of or relating (directly or indirectly) to any Claims. It is the express intention of the Parties that the City Parties be entitled to obtain summary adjudication or summary judgment regarding Licensee's duty to defend the City Parties at any stage of a Claim within the scope of Licensee's obligations to Indemnify the City Parties under this Agreement.

11.6 Savings Provision. Notwithstanding anything in this Agreement to the contrary, if the extent of Licensee's obligation to Indemnify the City Parties under this Agreement exceeds the indemnity obligation allowed by applicable Law, Licensee's obligation to Indemnify the City Parties shall be reduced to the extent required to comply with applicable Law.

12. [RESERVED].

13. **TERM; TERMINATION.** The term of this Agreement shall be twenty-five (25) years from the Effective Date ("**Initial Term**"), with the understanding that Licensee may not conduct any activity permitted by this Agreement that must also be permitted by the SDP unless and until the City Council approves the SDP. Within one hundred twenty (120) days before the end of the Initial Term or a Renewal Term (as the case may be), Licensee may request in writing submitted to the Mayor renewal of the Agreement on the same terms (each, a "**Renewal Request**") for an additional ten (10) years (each, a "**Renewal Term**" and together with the Initial Term, the "**Term**"). If the Mayor approves a Renewal Request in writing or does not respond before the end of the applicable term, this Agreement shall automatically renew for an additional Renewal Term, effective from the day after the last day of the applicable term. During the Initial Term, either party may terminate this Agreement only for cause. For purposes of this Section 13, "cause" shall mean any event that is the basis for a Termination Event under Sections 14.6 to 14.11. During any Renewal Term, either party may terminate this Agreement with or without cause on one hundred twenty (120) days' notice. Upon termination of this Agreement for any reason, Licensee shall

vacate the License Area on or before the Termination Date, and all improvements thereon, including the Trail and Bridge, shall become property and the responsibility of the City.

14. TERMINATION EVENT AND DATE. This Agreement shall terminate upon the earliest to occur of the following events (each, a “**Termination Event**,” and the date of termination, the “**Termination Date**”):

14.1 Initial Term. On the last day of the Initial Term if not Extended

14.2 Renewal Term. On the last day of any Renewal Term not extended.

14.3 Termination for Cause. On the effective date of any termination for cause.

14.4 Licensee Notice During a Renewal Term. The one hundred and twentieth (120th) day after the date Licensee both gives City Notice of termination of this Agreement and performs all of Licensee’s obligations under Section 14;

14.5 City Notice During a Renewal Term. The one hundred and twentieth (120th) day after the date City gives Licensee Notice of termination of this Agreement;

14.6 Eminent Domain. Termination of this Agreement under Section 21;

14.7 Event of Default. Following the occurrence of an Event of Default, City giving Licensee Notice of termination of this Agreement;

14.8 Casualty. Termination of this Agreement under Section 7; or

14.9 Breach of Warranty. City termination of this Agreement under Section 29.

14.10 Termination of JEPA or Dissolution of Licensee. *See* JEPA § 20.

14.11 Licensee’s Failure to Obtain SDP or Termination of SDP.

15. HOLDOVER. Any continued use of the License Area by Licensee or receipt or acceptance of License Fees by City after the Termination Date shall not renew or extend the Term or this Agreement and all terms and conditions of this Agreement shall apply to such use except: (1) City may terminate this Agreement for any reason or no reason on seven (7) days’ Notice to Licensee; and (2) the License Fee shall be the fair market value of such use, as determined by City.

16. CITY CURE RIGHT. If Licensee fails to take any action this Agreement requires of Licensee, without waiving or releasing Licensee from any obligation, Default, or Event of Default and without waiving City’s right to take such action as this Agreement may permit as a result of a Default or Event of Default, City may (but need not) take such action. Licensee shall reimburse City for all reasonable costs and expenses (including the costs of City staff time, administrative overhead, and Legal Costs) incurred by City in exercising its cure rights under this Section 16 within thirty (30) days after Notice to Licensee of such costs. All amounts reimbursable to City by Licensee under this Section 16 that are not paid within thirty (30) days after Notice to Licensee of the amount shall accrue Default Interest until paid. Nothing in this Section 16 is intended to modify or restrict any other cure right provided to City in this Agreement.

17. REMEDIES. After the occurrence of an Event of Default by the other Party, the non-defaulting Party shall be entitled to take any or all action authorized by this Agreement after the occurrence of an Event of Default by the other Party, including legal proceedings to enforce any or all contractual rights or remedies, or pursue any or all other remedies or damages relating to such Event of Default available to the non-defaulting Party at law or in equity.

18. LEGAL ACTIONS. Either Party may institute legal action, at law or in equity, to enforce or interpret the rights or obligations of the Parties under this Agreement or recover damages.

19. CUMULATIVE RIGHTS AND REMEDIES. The rights and remedies of the Parties under this Agreement are cumulative with all other rights or remedies of the Parties under this Agreement, at law, or in equity. The exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or a different time, of any other right or remedy for the same Default or Event of Default by the other Party or the same right or remedy for any other Default or Event of Default by the other Party.

20. CITY'S RESERVATION OF RIGHTS.

20.1 Government Action. By entering into this Agreement, neither City nor the City Council is obligating itself or any other Government regarding any discretionary action relating to the development, occupancy, use, or maintenance of the License Area, including re-zonings, variances, environmental clearances, or any Approval required to conduct the Permitted Use.

20.2 Resources. City reserves all right, title, and interest in all natural resources relating to the Property, including subsurface natural gas, oil, minerals, and water, on or within the Property.

21. EMINENT DOMAIN. If all or part of the License Area or any other part of the Property is taken through eminent domain proceedings or under threat of the exercise of the power of eminent domain by any Government with the power of eminent domain, City may terminate this Agreement immediately by Notice to Licensee. City may transfer its title or interest in the Property in lieu of condemnation to any Person entitled to exercise the power of eminent domain over the Property. City's exercise of any right or power under this Agreement shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon City for inverse condemnation.

22. NO DISCRIMINATION OR SEGREGATION. Licensee covenants by and for itself, himself or herself, its, his or her heirs, executors, administrators, and assigns, and all Persons claiming under or through it, him or her, that neither Licensee nor any Person claiming under or through Licensee shall establish or allow any discrimination against or segregation of any Person or group of Persons on account of race, color, religion, gender, gender expression, gender identity, disability, sexual orientation, marital status, national origin, ancestry, familial status, or source of income in the use of the License Area.

23. NOTICES. All Notices submitted by a Party to the other Party under or as required by this Agreement shall be sent by messenger for immediate personal delivery, nationally recognized overnight (one Business Day) delivery service (i.e., United Parcel Service, Federal Express, etc.), registered or certified first-class mail, postage prepaid, return receipt requested through the United States Postal Service, or by e-mail, to the address of the recipient Party designated below in this Section 23. Notices may be sent in the same manner to such other addresses as either Party may

from time to time designate by Notice in accordance with this Section 23. Notice shall be considered received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day the Notice is sent by messenger for immediate personal delivery, one (1) Business Day after delivery to a nationally recognized overnight delivery service, three (3) days after the Notice is deposited with the United States Postal Service in accordance with this Section 23, or on a Business Day sent by e-mail, if sent before 4:00 p.m. Pacific Time, otherwise on the next Business Day. Any attorney representing a Party may give any Notice on behalf of such Party. The Notice addresses for the Parties, as of the Effective Date, are as follows:

To City: City of San Diego
 Attn: Director, Department of Real Estate and Airport Management
 1200 Third Avenue, Suite 1700 (MS 51A)
 San Diego, CA 92101
 (619) 236-6020

 City of San Diego
 Attn: Senior Park Ranger, Open Space Div., Parks & Recreation Dept.
 202 C Street, 5th Floor (MS5D)
 San Diego, CA 92101
 (619) 685-1350

To Licensee: San Dieguito River Park Powers Authority
 Attn: Shawna Anderson, Executive Director
 18372 Sycamore Creek Road
 Escondido, CA 92025
 (858) 674-2275 ext. 13

24. TIME PERIOD CALCULATION. Unless otherwise specified, all references to time periods in this Agreement measured in days shall be to consecutive calendar days, all references to time periods in this Agreement measured in months shall be to consecutive calendar months, and all references to time periods in this Agreement measured in years shall be to consecutive calendar years. Any reference to Business Days in this Agreement shall mean consecutive Business Days.

25. INTERPRETATION PRINCIPLES. No inference in favor of or against any Party shall be drawn from the fact that such Party drafted any part of this Agreement. The Parties participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term, or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words “include” and “including” in this Agreement shall be construed to be followed by the words: “without limitation.” Each collective noun in this Agreement shall be interpreted as if followed by the words “(or any part of it),” except where the context clearly requires otherwise. Every reference to a document, including this Agreement, refers to such document, as modified from time to time (excepting any modification violating this Agreement), and includes all exhibits, schedules, addenda, and riders to such document. The word “or” in this Agreement includes the word “and,” except where the context clearly requires otherwise. Every reference to a law, statute,

regulation, order, form, or similar Government requirement refers to each such requirement as amended, modified, renumbered, superseded, or succeeded, from time to time.

26. GOVERNING LAW. The procedural and substantive laws of the State shall govern the interpretation and enforcement of this Agreement, without application of conflicts of laws principles or statutes. The Parties acknowledge and agree that this Agreement is entered into, is to be fully performed in and relates to real property located in the County. All legal actions arising from this Agreement shall be filed in the Superior Court of the State in and for the County or in the United States District Court with jurisdiction in the County.

27. [RESERVED].

28. RELATIONSHIP OF PARTIES. The Parties each intend and agree that City and Licensee are independent contracting entities and do not intend by this Agreement to create any partnership, joint venture, or similar business arrangement, relationship, or association between them.

29. WARRANTY AGAINST PAYMENT OF CONSIDERATION FOR AGREEMENT. Licensee represents and warrants to City that: (a) Licensee has not employed or retained any Person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees of Licensee; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Licensee or any of Licensee's agents, employees, or representatives to any elected or appointed official or employee of City in an attempt to secure this Agreement or favorable terms or conditions for this Agreement. Breach of the representations or warranties in this Section 29 shall entitle City to terminate this Agreement immediately. Upon any termination of this Agreement under this Section 29, Licensee shall immediately repay to City all payments made to or on behalf of Licensee by City (if any) under this Agreement prior to the Termination Date.

30. UNAVOIDABLE DELAY; EXTENSION OF TIME FOR PERFORMANCE. Performance by either Party under this Agreement shall not be considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within twenty (20) days after such Party knows of the Unavoidable Delay; and (b) within twenty (20) days after the Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time. Notwithstanding anything to the contrary in this Agreement, no obligation of Licensee for payment of money under this Agreement may be delayed by the occurrence of an Unavoidable Delay, unless the delay in payment of money is due to an Unavoidable Delay that prevents or materially limits the ability to transfer funds by or between Federal or State chartered financial institutions.

31. NO OTHER REPRESENTATIONS OR WARRANTIES. Except as expressly set forth in this Agreement, no Party makes any representation or warranty material to this Agreement to the other Party.

32. NO THIRD-PARTY BENEFICIARIES. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person

other than the Parties and their respective permitted successors and assigns (if any), nor is anything in this Agreement intended to relieve or discharge any obligation of any Third Person to any Party or give any Third Person any right of subrogation or action over or against any Party.

33. TIME OF THE ESSENCE. As to the performance of any obligation under this Agreement of which time is a component, the performance of such obligation within the time specified is of the essence of this Agreement.

34. WAIVERS AND AMENDMENTS. Each waiver of a term, provision, covenant, condition, restriction, or agreement contained in this Agreement must be in writing and signed by the authorized representative(s) of the Party making the waiver. Failure to insist on strict compliance with a term, provision, covenant, condition, restriction, or agreement contained in this Agreement at any time or times shall not constitute a waiver of such term, provision, covenant, condition, restriction, or agreement at any other time, nor shall any waiver or relinquishment of any right or power under this Agreement at any time or times constitute a waiver or relinquishment of such right or power at any other time. Each amendment to this Agreement must be in writing and signed by the authorized representative(s) of both City and Licensee.

35. ACCESSIBILITY ASSESSMENT. City discloses to Licensee that the Property has not been inspected by a Certified Access Specialist (CASP). City further states:

A Certified Access Specialist (CASP) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

36. SURVIVAL OF AGREEMENT. All the provisions of this Agreement shall be applicable to any dispute between the Parties arising from this Agreement, whether prior to or after the Termination Date, until any such dispute is finally and completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment, or expiration of all applicable statutory limitations periods, and all terms and conditions of this Agreement relating to dispute resolution and remedies shall survive the Termination Date.

37. INTEGRATION. This Agreement includes eighteen (18) pages and four (4) exhibits (the exhibits are incorporated into this Agreement by reference) constituting the entire understanding and agreement of the Parties regarding the subject matter of this Agreement and supersedes all previous negotiations or agreements between the Parties relating to the subject matter of this Agreement.

38. TITLES AND HEADINGS FOR REFERENCE ONLY. The titles and headings of the articles, paragraphs, or sections of this Agreement are for convenience of reference only, are not to be considered a part of this Agreement, and shall not in any way interpret, modify, or restrict

the meaning of any term, provision, covenant, condition, restriction, reservation, or agreement in this Agreement.

39. SEVERABILITY. If a term, provision, covenant, condition, restriction, or agreement contained in this Agreement or its application to any Person or circumstance shall to any extent be invalid or unenforceable, then the remainder of this Agreement, or the application of such a term, provision, covenant, condition, restriction, or agreement to Persons or circumstances other than those as to which the term or provision is invalid or unenforceable, shall not be affected by such invalidity. All remaining terms, provisions, covenants, conditions, restrictions, or agreements contained in this Agreement shall be valid and enforced to the fullest extent Law allows.

40. COUNTERPARTS. This Agreement may be signed in multiple counterpart originals, each of which shall be considered an original, and all of which shall constitute one and the same agreement.

41. ELECTRONIC SIGNATURES. The Parties agree: (a) to deliver and accept signatures on or under this Agreement by e-mail or electronic means (including digital signatures); and (b) that signatures delivered by e-mail or electronic means (including digital signatures) shall be binding as originals upon the Party so signing and delivering.

42. EXHIBITS. All the exhibits attached to this Agreement are described as follows:

EXHIBIT A	Definitions
EXHIBIT B	Property Legal Description
EXHIBIT C	License Area
EXHIBIT D	Insurance Requirements
EXHIBIT E	City Standard Contract Provisions

[Remainder of page intentionally blank. Signatures appear on immediately following page.]

**SIGNATURE PAGE
TO
LICENSE AGREEMENT**

**(Osuna Segment of Coast to Crest Trail Project –
San Dieguito River Park Joint Powers Authority)**

Licensee and City sign and enter into this Agreement by and through the signatures of their respective authorized representatives, as follow:

CITY:

The City of San Diego,
a California municipal corporation

LICENSEE:

The San Dieguito River Park Joint Powers
Authority, a California joint powers authority

By: _____
Christina Bibler
Director
Economic Development Department

By: _____
Name: _____
Title: _____

Approved as to form on

_____:

MARA W. ELLIOTT
City Attorney

By: _____
Brian Byun
Deputy City Attorney

**EXHIBIT A
TO
LICENSE AGREEMENT**

**(Osuna Segment of Coast to Crest Trail Project –
San Dieguito River Park Joint Powers Authority)**

DEFINITIONS

1. Approval. Excluding this Agreement, all licenses, permits (including building, grading, demolition, alteration, use and special permits), approvals, consents, certificates, rulings, variances, authorizations, conditional use permits, or amendments to any of the foregoing, necessary or appropriate under any Law to commence, perform, or complete the Permitted Use on the License Area.
2. Business Day. Any weekday on which City is open to conduct regular City functions with City personnel.
3. City. Defined in the first paragraph of this Agreement.
4. City Parties. Collectively, City, the City Council, and all City elected officials, employees, agents, and attorneys.
5. City Party. Individually, City, the City Council, and each City elected official, employee, agent, or attorney.
6. Claim. Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity, or otherwise, or foreseeable or unforeseeable), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees, expenses and investigation costs of whatever kind or nature, and Legal Costs) and any judgment.
7. County. The County of San Diego, California.
8. Default. Any Monetary Default or Non-Monetary Default.
9. Default Interest. The lesser of eight percent (8%) annually or the maximum rate allowed by Law.
10. Effective Date. Defined in the first paragraph of this Agreement.
11. Environmental Claim. All Claims, directly or indirectly, relating to or arising from any actual or alleged violation of any Environmental Law relating to the Property, the Permitted Use, or any Hazardous Substance Discharge.
12. Environmental Condition. Any of the following events relating to the Property and arising from the Permitted Use, any action by a Licensee Party, or any failure to act by a Licensee Party that had a duty to act: (a) an actual or alleged violation of any Environmental Law; or (b) a Hazardous Substance Discharge.

13. Environmental Law. All Federal, State, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any Government, now in effect or enacted after the Effective Date, regulating, relating to, or imposing liability or standards of conduct concerning: (a) any Hazardous Substance; (b) occupational health or industrial hygiene (only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under or about the Property or relating to the Permitted Use); (c) occupational or environmental conditions on, under or about the Property or relating to the Permitted Use; (d) or the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use.

14. Equity Interest. Any equity or ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest, or other interest of an ownership or equity nature) in a Person.

15. Event of Default. The occurrence of any one or more of the following:

15.1 *Monetary Default*. A Monetary Default continuing for seven (7) days after Notice from the non-defaulting Party, specifying in reasonable detail the amount of money not paid, including the nature and calculation of each such amount, or the evidence of insurance not delivered;

15.2 *Sign Removal*. Licensee's failure to remove an unauthorized Sign in accordance with Section 5.5;

15.3 *Licensee Transfer*. The occurrence of a Transfer, whether voluntarily or involuntarily or by operation of Law, in violation of Section 3.3;

15.4 *Other Use Interference*. Licensee's failure to eliminate the interference with the Other Uses within forty-eight (48) hours or some other mutually agreed upon amount of time after Notice from City that the Permitted Use interferes with the Other Uses, all in accordance with Section 3.2;

15.5 *Non-Monetary Default*. Any Non-Monetary Default, other than those specifically addressed in Sections 15.2, 15.3, or 15.4, that is not cured within thirty (30) days after Notice to the Party in Default describing the Non-Monetary Default in reasonable detail. In the case of a Non-Monetary Default that cannot with reasonable diligence be cured within thirty (30) days after the date of Notice of the Non-Monetary Default to the Party in Default, the Party in Default shall not be in Default if it does all the following: (a) within thirty (30) days after the date of Notice of such Non-Monetary Default, Notify the other Party of the intention of the Party in Default to take all reasonable steps to cure such Non-Monetary Default; (b) within thirty (30) days after the date of Notice of such Non-Monetary Default, commence curing the Non-Monetary Default; and (c) complete the cure of the Non-Monetary Default within a reasonable time.

16. Federal. Relating to or under the authority of the federal government of the United States of America.

17. Government. Every governmental agency, authority, bureau, department, quasi-governmental body, utility, utility service provider, or other entity or instrumentality having or claiming jurisdiction over the Property or the Permitted Use, including the Federal, State, County, City (in City's governmental capacity) governments and their subdivisions and municipalities, including City, any planning commission, board of standards and appeals, building department,

zoning board of appeals, design review board or committee, the California Coastal Commission, and all other applicable governmental agencies, authorities, and subdivisions having or claiming jurisdiction over the Property or any activities on or at the Property.

18. [Reserved.].

19. Hazardous Substance. Any flammable substance, explosive, radioactive material, asbestos, asbestos-containing material, polychlorinated biphenyl, chemical known to the State to cause cancer or reproductive toxicity, pollutant, contaminant, hazardous waste, medical waste, toxic substance or related material, petroleum, petroleum product or any “hazardous” or “toxic” material, substance, or waste defined by those or similar terms or regulated as such under any Law, any matter, waste, or substance subject to any Law regulating, relating to, or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property, or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor, or any form of energy, from whatever source.

20. Hazardous Substance Discharge. Any deposit, discharge, generation, release, or spill of a Hazardous Substance occurring at, on, under, into, or from the Property, or during transportation of any Hazardous Substance to or from the Property, or arising at any time from activities conducted at, on, under, or from the Property, whether or not caused by a Party.

21. Indemnify. Indemnify, defend, and hold harmless the specified Person(s) from and against the Claim (alleged or otherwise), including Legal Costs and other costs incurred in enforcing the Party’s indemnity obligation(s) relating to the Claim.

22. Law. Every law, ordinance, requirement, order, proclamation, directive, rule, or regulation of any Government applicable to a Party, the Property, or the Permitted Use, or otherwise relating to a Party, this Agreement, the Permitted Use, or any Party’s rights, obligations, or remedies under this Agreement, whether in force on the Effective Date or passed, enacted, modified, amended, or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption.

23. Legal Costs. In reference to any Person, all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys’ fees, court costs and expenses, and reasonable consultant and expert witness fees and expenses.

24. License Area. That part of the Property specifically described as the “License Area” in **EXHIBIT C** attached to this Agreement.

25. Licensee. Defined in the first paragraph of this Agreement.

26. License Fee. N/A.

27. Licensee Parties. Collectively, Licensee, its directors, officers, members, partners, employees, agents, contractors, attorneys, and all other Persons whom Licensee authorizes or allows to enter the License Area.

28. Licensee Party. Individually, Licensee, its directors, officers, members, partners, employees, agents, attorneys, or other Person whom Licensee authorizes or allows to enter the License Area.
29. Mayor. The Mayor of City or his or her designee or successor in function.
30. Monetary Default. Any failure by a Party to pay, deposit, or provide, when and as this Agreement requires, any amount of money or evidence of insurance coverage, whether to or with a Party or a Third Person.
31. Non-Monetary Default. The occurrence of any of the following events, except to the extent constituting a Monetary Default: (a) the failure of a Party to perform one of its obligations under this Agreement; (b) the failure of a Party to comply with a material restriction or prohibition in this Agreement; or (c) any other event or circumstance that, with passage of time or giving of Notice, or both, would constitute a breach of this Agreement.
32. Notice. Any consent, demand, designation, election, notice, or request relating to this Agreement. All Notices must be in writing.
33. Notify. To give a Notice.
34. Other Uses. Defined in Section 3.2.
35. Parties. Collectively, City and Licensee.
36. Party. Individually, either City or Licensee, as applicable.
37. Permitted Use. Defined in Section 5.1.
38. Person. Any association, corporation, Government, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind.
39. Property. That certain real property owned by City specifically described in **EXHIBIT B** attached to this Agreement.
40. SDMC. San Diego Municipal Code.
41. Sign. Defined in Section 5.5.
42. State. The State of California.
43. Term. Defined in Section 14.
44. Termination Date. Defined in Section 14.
45. Third Person. Any Person that is not a City Party, a Licensee Party, or an affiliate of a Party.

46. Transfer. Any of the following events, whether occurring by operation of law, voluntarily or involuntarily, or directly or indirectly: (a) any assignment, conveyance, grant, hypothecation, mortgage, pledge, sale, license, or other transfer, whether direct or indirect, of all or any part of Licensee's legal, beneficial, or equitable interest in this Agreement; (b) any conversion, exchange, issuance, modification, reallocation, sale, or other transfer of any direct or indirect Equity Interest(s) in Licensee by the owner(s) of such Equity Interest(s); (c) any transaction described in clause "(b)" affecting any Equity Interest(s) or any owner of Equity Interest(s) (or in any other direct or indirect owner at any higher tier of ownership) through any manner or means whatsoever; or (d) any transaction that is in substance equivalent to any of the transactions described in clauses "(a)" through "(c)" of this Section 46. A transaction affecting Equity Interests, as referred to in clauses "(b)" through "(d)" of this Section 46 shall be deemed a Transfer by Licensee even though Licensee is not technically the transferor. A "Transfer" shall not, however, include any transaction (provided that the other Party receives Notice of such transaction at least fifteen (15) days before the transaction is final) relating to any Equity Interest: (a) that constitutes a mere change in form of ownership with no material change in beneficial ownership and constitutes a tax-free transaction under federal income tax law and the State real estate transfer tax; or (b) to any Person that, as of the Effective Date, holds an Equity Interest in, or is under common control with, the Person whose Equity Interest is being transferred.

47. Unavoidable Delay. A delay in either Party performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, including strike, labor trouble or other union activity, casualty, war, act of terrorism, riot, litigation, Government action, regional natural disaster, pandemic, or inability to obtain materials. Unavoidable Delay shall not include delay caused by a Party's financial condition, illiquidity, or insolvency.

**EXHIBIT B
TO
LICENSE AGREEMENT**

**(Osuna Segment of Coast to Crest Trail Project –
San Dieguito River Park Joint Powers Authority)**

PROPERTY LEGAL DESCRIPTION

That portion of Lot No. 1 of Fairbanks Ranch Country Club Unit No. 1, according to the Map thereof No. 10730, in the City of San Diego, filed in the Office of the County Recorder of the County of San Diego, State of California, described as follows:

Beginning at the Northerly terminus of the West line of said Lot 1; thence South 89°02'46" East along the boundary of Lot 1 a distance of 2,688.58 feet; thence North 00°36'06" East 20.00 feet; thence South 89°57'49" East 175.32 feet; thence 00°55'54" West 246.03 feet; thence South 65°34'37" East 227.34 feet; thence North 29°55'09" East 611.49 feet; thence South 72°03'30" East 587.57 feet; thence North 74°40'00" East 128.58 feet; thence North 23°11'55" East 106.62 feet; thence North 12°54'09" West 232.88 feet; thence North 46°58'30" West 143.63 feet; thence South 86°23'17" West 301.60 feet; thence North 19°19'23" East 163.19 feet; thence North 23°08'51" West 190.26 feet; thence North 29°08'26" East 12.54 feet to the beginning of a non-tangent 849.00-foot radius curve concave Northwesterly, a radial line to said point bears South 28°24'52" East; thence Northeasterly along the arc of said curve through a central angle of 23°43'57", a distance of 351.66 feet; thence leaving said curve along a non-tangent line North 41°16'49" East 63.42 feet to the beginning of a non-tangent 540.00-foot radius curve concave Northwesterly, a radial line to said point bears South 48°43'11" East; thence Northeasterly, along the arc of said curve through a central angle of 32°41'21", a distance of 308.09 feet; thence leaving said curve along a non-tangent line South 87°36'22" East 1,474.63 feet; thence leaving the boundary of said Lot 1 South 42°52'00" West 850.00 feet; thence South 41°20'34" West 522.34 feet to the beginning of a tangent 3,135.00-foot radius curve concave Northwesterly; thence Southwesterly along the arc of said curve through a central angle of 21°38'43", a distance of 1,184.34 feet; thence leaving the arc of said curve along a radial line to said curve North 27°00'43" West 154.26 feet; thence North 53°39'49" West 120.00 feet; thence South 80°40'46" West 96.25 feet; thence South 25°51'38" West 95.00 feet; thence South 59°28'51" West 105.00 feet; thence North 66°12'16" West 80.00 feet; thence South 82°40'21" West 275.00 feet to the beginning of a tangent 175.00-foot radius curve concave Easterly; thence Southerly along the arc of said curve through a central angle of 94°23'35", a distance of 288.31 feet; thence South 11°43'14" East 132.00 feet; thence South 78°16'46" West 1,186.00 feet to the beginning of a tangent 2,930.00-foot radius curve concave Northerly; thence Westerly along the arc of said curve through a central angle of 809°12'35", a distance of 470.97 feet, thence leaving the arc of said curve along a non-tangent line South 83°52'53" West 553.67 feet to a line which is parallel with and 10.00 feet North of the South line of said Lot 1; thence North 89°28'00" West a distance of 625.91 feet to the West line of said Lot 1; thence along said West line North 00°24'12" West 722.48 feet and North 01°31'23" East 404.64 feet to the Point of Beginning, except that portion of Lot 1 dedicated for Via De La Valle by City Council Resolution 262466.

**EXHIBIT C
TO
LICENSE AGREEMENT**

**(Osuna Segment of Coast to Crest Trail Project –
San Dieguito River Park Joint Powers Authority)**

LICENSE AREA

East boundary of that portion of Lot No. 1 of Fairbanks Ranch Country Club Unit No. 1, according to the Map thereof No. 10730, in the City of San Diego, filed in the Office of the County Recorder of the County of San Diego, State of California.

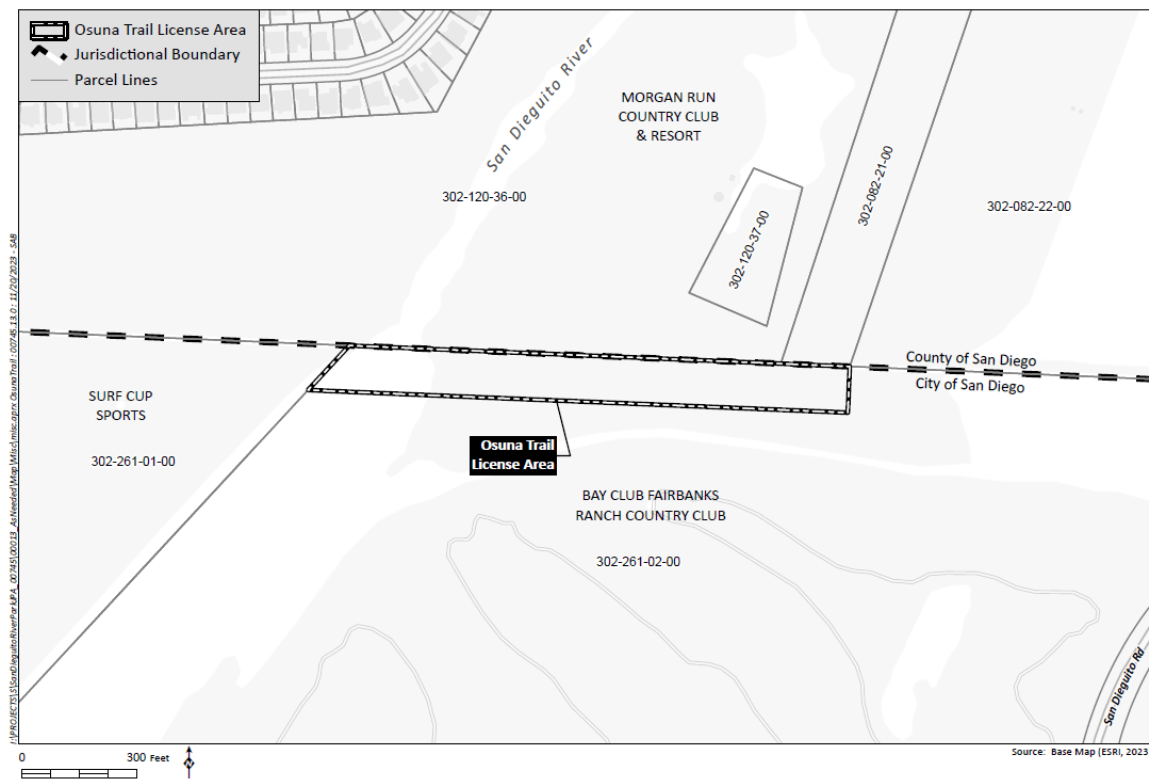


Exhibit C – Osuna Trail License Area

**EXHIBIT D
TO
LICENSE AGREEMENT**

**(Osuna Segment of Coast to Crest Trail Project –
San Dieguito River Park Joint Powers Authority)**

INSURANCE REQUIREMENTS

1. Required Insurance Coverage.

- 1.1. *Automobile Liability Insurance.* Insurance coverage against claims of personal injury (including bodily injury and death), and property damage covering all owned, leased, hired, and non-owned vehicles used by Licensee, with minimum limits for bodily injury and property damage of Two Million Dollars (\$2,000,000). Such insurance shall be provided by a business or commercial vehicle policy and may be provided through a combination of primary and excess or umbrella policies, all of which shall be subject to pre-approval by City, which pre-approval shall not be unreasonably withheld.
- 1.2. *Liability Insurance.* Commercial general liability insurance against claims for bodily injury, personal injury, death, or property damage occurring upon, in or about the License Area or adjoining streets or passageways, at least as broad as Insurance Services Office Occurrence Form CG0001, with a minimum liability limit of Two Million Dollars (\$2,000,000) for any one occurrence and Four Million Dollars (\$4,000,000) aggregate. Commercial general liability insurance coverage may be provided through a combination of primary and excess or umbrella insurance policies. If commercial general liability insurance or other form with a general aggregate limit is used, the general aggregate limit shall apply separately to the License Area.
- 1.3. *Property Insurance.* Insurance providing coverage for the License Area and all improvements on or to the License Area against loss, damage, or destruction by fire or other hazards encompassed under Cause of Loss – Special Form of property insurance coverage then customarily used for like properties in the County, in an amount equal to one hundred percent (100%) of the replacement value (without deduction for depreciation) of all improvements (excluding excavations and foundations), and in any event sufficient to avoid co-insurance and with no co-insurance penalty provision, with “ordinance or law” coverage. To the extent customary for like properties in the County at the time, such insurance shall include coverage for explosion of steam and pressure boilers and similar apparatus located in or associated with the License Area, an “increased cost of construction” endorsement and an endorsement covering demolition and cost of debris removal.
- 1.4. *Workers Compensation Insurance.* Workers compensation insurance complying with the provisions of State law and an employer’s liability insurance policy, with a minimum liability limit of One Million Dollars (\$1,000,000) per accident for bodily injury, or disease, covering all employees of Licensee.

EXHIBIT D - 1

Insurance Requirements

Page 36

2. **Nature of Insurance.** The contents of this **EXHIBIT D** are sometimes referred to as the “**Insurance Requirements.**” All Liability Insurance, Automobile Liability Insurance, Property Insurance, and Workers Compensation Insurance policies required by these Insurance Requirements shall be issued by carriers that: (a) are listed in the then current “Best’s Key Rating Guide—Property/Casualty—United States & Canada” publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of “A-” and a minimum financial size category of “VII” (exception may be made for the State Compensation Insurance Fund when not specifically rated); and (b) are authorized to do business in the State by the State Department of Insurance. Licensee may provide any insurance under a “blanket” or “umbrella” insurance policy, provided that: (i) such policy or a certificate of such policy shall specify the amount(s) of the total insurance allocated to the License Area, which amount(s) shall equal or exceed the amount(s) required by these Insurance Requirements; and (ii) such policy otherwise complies with the requirements of these Insurance Requirements.
3. **Policy Requirements and Endorsements.** All insurance policies required by these Insurance Requirements shall contain (by endorsement or otherwise) the following provisions:
 - 3.1. *Insured.* Liability Insurance policies shall name the City Parties as “additional insured.” The coverage afforded to the City Parties shall be at least as broad as that afforded to Licensee regarding the License Area and may not contain any terms, conditions, exclusions, or limitations applicable to the City Parties that do not apply to Licensee.
 - 3.2. *Primary Coverage.* Any insurance or self-insurance maintained by the City Parties shall be excess of all insurance required to be maintained by Licensee under these Insurance Requirements and shall not contribute with any insurance required to be maintained by Licensee under these Insurance Requirements.
 - 3.3. *Contractual Liability.* Liability Insurance policies shall contain contractual liability coverage for Licensee’s Indemnity obligations under this Agreement. Licensee’s obtaining or failing to obtain such contractual liability coverage shall not relieve Licensee from nor satisfy any Indemnity obligation of Licensee under this Agreement.
 - 3.4. *Deliveries to City.* Evidence of Licensee’s maintenance of all insurance policies required by these Insurance Requirements shall be delivered to City before the Effective Date. No later than ten (10) days before any insurance required by these Insurance Requirements expires, is cancelled or its liability limits are reduced or exhausted, Licensee shall deliver to City evidence of Licensee’s maintenance of all insurance required by these Insurance Requirements. Each insurance policy required by these Insurance Requirements shall be endorsed to state that coverage shall not be cancelled, suspended, voided, reduced in coverage or in limits, except after thirty (30) days’ advance Notice of such action to City. Phrases such as “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company” shall not be included in the cancellation

wording of any certificates or policies of insurance applicable to the City Parties under these Insurance Requirements.

- 3.5. *Waiver of Certain Claims.* Licensee shall cause each insurance carrier providing any Liability Insurance, Worker's Compensation Insurance, or Automobile Liability Insurance coverage under these Insurance Requirements to endorse their applicable policy(ies) with a Waiver of Subrogation (defined below) with respect to the City Parties, if not originally in the policy. To the extent Licensee obtains an insurance policy covering both the Licensee Parties and the City Parties and containing a Waiver of Subrogation, the Parties release each other from any Claims for damage to any Person or property to the extent such Claims are paid by the insurance carrier under such insurance policy. **"Waiver of Subrogation"** means and refers to a provision in, or endorsement to, any insurance policy, under which the carrier agrees to waive rights of recovery by way of subrogation against the City Parties for any loss such insurance policy covers.
- 3.6. *No Representation.* No Party makes any representation that the limits, scope, or forms of insurance coverage required by these Insurance Requirements are adequate or sufficient.
- 3.7. *No Claims Made Coverage.* None of the insurance coverage required by these Insurance Requirements may be written on a claims-made basis.
- 3.8. *Fully Paid and Non-Assessable.* All insurance obtained and maintained by Licensee in satisfaction of these Insurance Requirements shall be fully paid for and non-assessable.
- 3.9. *Separation of Insured.* All Liability Insurance and Automobile Liability Insurance shall provide for separation of insured for Licensee and the City Parties. Insurance policies obtained in satisfaction of these Insurance Requirements may provide a cross-suits exclusion for suits between named insured Persons but shall not exclude suits between named insured Persons and additional insured Persons.
- 3.10. *Deductibles and Self-Insured Retentions.* All deductibles or self-insured retentions under insurance policies required by these Insurance Requirements shall be declared to and approved by City. Licensee shall pay all such deductibles or self-insured retentions regarding the City Parties. Each insurance policy issued in satisfaction of these Insurance Requirements shall provide that, to the extent Licensee fails to pay all or any portion of a self-insured retention under such policy in reference to an otherwise insured loss, City may pay the unpaid portion of such self-insured retention, in City's sole and absolute discretion. All amounts paid by City toward self-insured retentions regarding insurance policies covering the City Parties under these Insurance Requirements shall be reimbursed to City by Licensee in the same manner that insurance costs are reimbursable to City from Licensee under Section 5 of these Insurance Requirements.
- 3.11. *No Separate Insurance.* Licensee shall not carry separate or additional insurance coverage concurrent in form or contributing in the event of loss with insurance

coverage required by these Insurance Requirements unless the City Parties are made additional insured under such insurance coverage.

4. **Insurance Independent of Indemnification.** These Insurance Requirements, are independent of the Parties' Indemnification and other obligations under this Agreement and shall not be construed or interpreted in any way to satisfy, restrict, limit or modify the Parties' Indemnification or other obligations or to limit the Parties' liability under this Agreement, whether within, outside or in excess of such coverage, and regardless of solvency or insolvency of the insurer issuing the coverage, nor shall the provision of such insurance preclude City from taking such other actions as are available to City under any other provision of this Agreement or otherwise at law or in equity.
5. **City Option to Obtain Coverage.** During the continuance of an Event of Default arising from the failure of Licensee to carry any insurance coverage required by these Insurance Requirements, City may, in City's sole and absolute discretion, purchase such required insurance coverage. City shall be entitled to immediate payment from Licensee of all premiums and associated reasonable costs paid by City to obtain such insurance coverage. Each amount becoming due and payable to City under this Section 5 that is not paid within fifteen (15) days after Notice from City with an explanation of the amounts owed, will accrue Default Interest from the date incurred until paid. Election by City to purchase or not to purchase insurance coverage otherwise required by these Insurance Requirements to be carried by Licensee shall not relieve Licensee of any Default or Event of Default or Licensee's obligation to obtain and maintain any insurance coverage required by these Insurance Requirements.

**EXHIBIT E
TO
LICENSE AGREEMENT**

**(Osuna Segment of Coast to Crest Trail Project –
San Dieguito River Park Joint Powers Authority)**

CITY STANDARD CONTRACT PROVISIONS

1. **Licensee Certifications of Compliance.** By signing this Agreement, Licensee agrees and certifies that Licensee is aware of, and will comply with, all the following requirements in performance of this Agreement:

1.1. Licensee Certification for Americans with Disabilities Act (“ADA”) and State Access Laws and Regulations. Licensee shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Licensee shall comply with the most restrictive requirement (i.e., that which provides the most access). Licensee also shall comply with the City’s ADA Compliance/City Contractors requirements set forth in Council Policy 100-04, which is incorporated into this Agreement by reference. Licensee warrants and certifies compliance with all Federal and State access laws and regulations and further certifies that all subcontracts relating to this Agreement, or the License Area will contain the subcontractor’s agreement to abide by the provisions of Council Policy 100-04 and all applicable Federal and State access laws and regulations.

1.2. Compliance with City’s Equal Opportunity Contracting Program (“EOCP”). Licensee shall comply with all EOCP requirements. Licensee shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Licensee shall provide equal opportunity in all employment practices. Licensee shall ensure that its subcontractors comply with the EOCP. Nothing in this Section 1.2 shall be interpreted to hold Licensee liable for any discriminatory practice of its subcontractors. Prior to commencing the Permitted Use on the License Area, Licensee shall contact the EOCP staff to determine compliance with all applicable rules and regulations.

1.3. Equal Benefits Ordinance Certification. Unless an exception applies, Licensee shall comply with the “Equal Benefits Ordinance” codified in San Diego Municipal Code (“SDMC”) section 22.4308.

1.4. Equal Pay Ordinance. Unless an exception applies, Licensee shall comply with the “Equal Pay Ordinance” codified in SDMC sections 22.4801 through 22.4809. Licensee shall certify in writing that it will comply with the requirements of the Equal Pay Ordinance. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of Licensee to the same extent as it would apply to Licensee. Licensee shall require all its subcontractors to certify compliance with the Equal Pay Ordinance in written subcontracts.

1.5. Product Endorsement. Licensee shall comply with Council Policy 000-41 concerning product endorsement requiring that any advertisement referring to City as a user of a good or service must have the prior written approval of the Mayor.

Agenda Item 3 January 19, 2024

SDRP Consolidated Budget Status FY 23-24 - 2nd Quarter (July 2023-Dec 2023)

Operating Fund				
Revenues	Thru 2nd Qtr rec'd	2nd Qtr proj.	2nd Qtr target 50%	Total Annual
Member Agencies	1,292,369	646,184	100%	1,292,368
Habitat Mgmt.	13,182	48,680	14%	97,360
Misc.	169,134	172,872	49%	345,743
Total Revenue	1,474,685	867,736	85%	1,735,471
Expenditures	Thru 2nd Qtr exp'd	2nd Qtr proj.	2nd Qtr target 50%	Total Annual
Education.Volunteer	3,011	5,000	30%	10,000
Salaries	659,011	722,882	46%	1,445,763
Habitat Management	12,895	11,000	59%	22,000
Non-habitat Services	34,891	26,888	65%	53,775
Office Admin	141,758	91,467	77%	182,933
Sikes Adobe	11,427	10,500	54%	21,000
Total Expenses	862,993	867,736	50%	1,735,471

Coast Budget Operated on Calendar Year - Status through 4th Quarter (Jan - Dec 2023)

Expenditures	Thru 4th Qtr exp'd	4th Qtr proj.	4th Qtr target 100%	Total Annual
Materials	10,954	11,000	100%	11,000
Salaries	206,677	206,677	100%	206,677
Operations	60,021	60,230	100%	60,230
Vehicles	11,858	12,000	99%	12,000
Total Expenses	289,510	289,907	100%	289,907

San Dieguito River Park JPA 2023 Accomplishments

Grants/Donations/Other Monetary Awards

- Met goal of raising \$2 Million in joint Get-to-71 Trail Gap Campaign with San Dieguito River Valley Conservancy
- Awarded \$1.4 Million from State Budget from Senator Catherine Blakespear for construction of Osuna Segment of Coast to Crest Trail
- Awarded \$1.3 Million from State Budget from Senator Toni Atkins for design and construction of SDRP Western Gateway and Fairgrounds Trail
- Awarded \$24,000 from Del Mar Foundation for SDRP Western Gateway and Fairgrounds Trail design
- Received 20-acre coastal lagoon property from private landowner for habitat preservation
- Received \$13,000 donation as charity at The Red Nose Run in Del Mar
- Collected over \$36,000 from Bike/Run Events held on SDRP trails
- Received \$18,000 in miscellaneous private donations

Trails and Other Park Projects

- Continued monitoring and partner participation for San Dieguito Lagoon Restoration Phase Two construction. Participated in media events and project tours with SANDAG and Caltrans team.
- Launched and directed planning and design of 13 miles of CTC Trail gaps in East San Pasqual Valley and Sutherland area
- Initiated planning and design of SDRP Western Gateway and Fairgrounds Trail
- Continued processing permits and completed CEQA for Osuna segment of CTC Trail
- Conducted SDRP website makeover and launched new website December 2023
- Designed and installed (2 pending) 3 new watershed panels at San Dieguito Lagoon, San Pasqual Valley and Volcan Mountain
- Installed Scout-project kiosk at Ranger Station
- Revitalized Sikes orchard, created new garden map, and native plant propagation
- Replaced deteriorating trail signs throughout SDRP

Habitat Conservation and Restoration

- Completed Conservation Easement purchase from Navy for 9.7-acre habitat conservation area at Sycamore Westridge in Poway
- Began implementing cactus wren habitat restoration project at Bernardo Mnt funded by SANDAG Environmental Mitigation Program grant

- Managed and maintained seven Habitat Management Areas
- Continued restoration/maintenance of 4-acre Pamo mitigation site
- Seed harvesting and plantings at Pamo and East Gorge HMP
- Conducted invasive species control projects at Bernardo Mountain, Sycamore Creek, and Santa Maria Creek

Community Outreach and Education

- Continued Watershed Explorers Program including first year of the WEP Summer Camp, overnight camping, 10 field excursions, volunteer training, and workshops; and participated in Outdoor Recreation Leadership Training
- Participated in multiple community outreach events including Earth Day, Poway Garden Show, I Love a Clean San Diego Coastal Clean Up, and others; and gave several presentations promoting SDRP; partnered with SDRVC
- Participated in college career and internship fairs and supported UCSD research project
- Sponsored 8 internships and completed 3 Eagle Scout and 2 Girl Scout Gold Awards
- Led guided tours and hikes throughout SDRP and tours of Sikes Adobe Farmhouse
- Hosted annual San Diego Native Plant Society Tour, Adobe Home Tours and Master Gardener Group and Festive Farmhouse at Sikes Adobe
- Held monthly volunteer trail maintenance and habitat restoration events, started weekly group for Sikes Adobe gardens, and held 6 Volunteer Enrichments
- Held 2023 Volunteer Appreciation Party at Ranger Station with special guest Senator Blakespear

2024 SAN DIEGUITO RIVER PARK JPA PRIORITIES

- Fill vacant Environmental Planner position
- Adopt and Implement JPA financial sustainability strategies
- Improve promotion with goal to increase SDRP Endowment Fund
- Osuna segment of CTC Trail – obtain permits, contract bid process, and begin construction
- Implement Hubbell Gateway and Fairgrounds Trail
- Resolve bridge and trail erosion issues along Horse Park segment of CTC Trail
- Continue design and donor/public engagement for CTC Trail gaps project
- Prepare W19 lagoon endowment agreement and timeline
- Grand opening of new trail along W19 restored wetlands
- Resurrect Sikes Farmers Market
- Continue successful Watershed Explorers Program