

**COUNTY OF SAN MATEO**

**PERMIT**

(No. 5404)

SILICON VALLEY CLEAN WATER

San Carlos Airport  
San Carlos, California

**PERMITTEE: SVCW**

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**Permit (No. 5404)**

San Carlos Airport  
SILICON VALLEY CLEAN WATER, INC.  
BAIR ISLAND

**1) BASIC PERMIT INFORMATION**

The following is a summary of basic permit information (the "Basic Permit Information"). Each item below shall be deemed to incorporate all of the terms in this Permit pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Permit, the more specific provision shall control.

Permit Reference Date: July 1, 2019

Permitter: County of San Mateo

Permittee: Silicon Valley Clean Water (and permitted successors and assigns)

Property (Section 4): San Carlos Airport, San Carlos, California 94070

Premises (Section 4): Use of the surface and subsurface portions of Inner Bair Island (APN 095-030-230) as necessary to support the Permittee's Project, further described and shown on Exhibit A and Exhibit A-1.

Non-exclusive use of the Property's common areas and parking facilities, subject to the provisions of Exhibit C, Special Requirements/Conditions.

Term (Section 5): Commencement Date:  
August 12, 2019

Initial Expiration Date:  
June 30, 2020

Following the Initial Term, Permittee shall have four (4) automatic renewal options for four separate additional one (1)

year periods under the terms and conditions stated in this Permit.

Base Permit Fee (Section 6):

From August 12, 2019 through October 1, 2019, Permittee shall pay for the 75,925 square feet Premises used based on \$0.40/sf per month, or \$1,012.33 per day, or \$51,628.83.

Beginning October 2, 2019, Permittee shall pay for the 130,375 square foot portion of the Premises used based on \$0.40/sf per month, or \$52,150 per month, throughout the remaining term of the Permit, unless modified by the terms of Section 6.

Fee Adjustment Dates (Section 8):

3% Increase each July 1.

Processing Fee (Section 6):

Not used

Use (Section 12):

Use of the surface and subsurface property as necessary to properly support the Permittee's RESCU Program Gravity Pipeline Project and the activities permitted pursuant to the Bair Island Easement.

Permittee Improvements (Section 13):

Permittee shall be permitted to level and gravel the Premises and make other improvements as provided for in this Permit.

Utilities (Section 15):

None.

Janitorial Services (Section 16):

Not Used

Security Deposit (Section 23):

None

Notice Address of County (Section 38):

County Manager's Office  
Attn: Real Property Services Manager  
555 County Center, 4<sup>th</sup> Floor  
Redwood City, California 94063  
Telephone: (650) 363 -4047  
Fax No.: (650) 363-4832

with a copy to:

County of San Mateo  
Department of Public Works  
Airports Division  
Attn: Gretchen Kelly  
620 Airport Drive  
San Carlos, California 94070  
Fax No.: (650) 593-3762

and to:

Office of County Counsel  
400 County Center, 6th Floor  
Redwood City, California 94063  
Fax No.: (650) 363-4034

Key Contact for County:

Gretchen Kelly, Airport Manager  
Phone: (650) 573-3700  
Fax: (650) 593-3762

Alternate Contact for County:

Airport Business Manager  
Phone: (650) 573-3700  
Fax: (650) 593-3762

Address for Permittee (Section 38):

Silicon Valley Clean Water  
1400 Radio Road  
Redwood City, CA 94065-1220

Key Contact for Permittee:

Kim Hackett  
Silicon Valley Clean Water  
Phone: 650-832-6217

Brokers (Section 44 (V)):

N/A

## 2) PARTIES

This Permit (the "Permit") dated, for reference purposes only, the 1<sup>st</sup> day of July, 2019, is made by and between the COUNTY OF SAN MATEO, a political subdivision of the State of California ("Permitter" or "County") whose address for these purposes is:

Real Property Division, County Manager's Office  
555 County Center, 4<sup>th</sup> Floor  
Redwood City, California 94063

and Silicon Valley Clean Water ("Permittee") whose address is:

1400 Radio Road  
Redwood City, California 94065-1220

### **3) TERMS, COVENANTS AND CONDITIONS**

This Permit is subject to the terms, covenants and conditions herein set forth. Each party covenants, as a material part of the consideration for this Permit, to keep and perform each and all of said terms, covenants and conditions that are to be performed, and that this Permit is made upon the condition of said performance.

### **4) PREMISES**

Permitter is the owner of that certain parcel of real property commonly known as the San Carlos Airport, San Carlos, California (the "Property").

Upon execution, the Permit Premises is a 130,375 square foot surface and subsurface portion of Inner Bair Island (APN 095-030-230) as described herein on Exhibit A and Exhibit A-1, as attached hereto and incorporated herein by reference. The Premises shall be used in connection with the rights granted to Permittee by Permitter pursuant to a separate Revised Public Utility Easement Deed for Inner Bair Island ("Easement").

### **5) TERM**

The initial term of this Permit commenced on August 12, 2019, the day the Premises were first occupied by Permittee, and expired on June 30, 2020 ("Initial Term"). Permittee is hereby granted four (4) automatic renewal options for four (4) separate additional one (1) year periods as set forth in Section 7 of this Permit (Extension Option), extending the term of this Permit beyond the Initial Term under the same terms and conditions as described in this Permit.

### **6) FEES**

#### **a) Base Permit Fee**

The parties have agreed that the fair market value of the rights granted pursuant to this Permit is \$0.40 per square foot per month ("Permit Fee"). Accordingly, upon execution of this Permit, Permittee agrees to pay to Permitter all fees then due, as follows:

August 12, 2019 through October 1, 2019	Permittee shall pay for the 75,925 sq. ft. portion identified on Exhibit A  A total amount of \$51,629
October 2, 2019 through June 30, 2020	Permittee shall pay for the additional 54,450 square foot portion identified on Exhibit A-1, for a total of 130,375 square feet occupied.  \$52,150 per month, or a total sum of \$417,200
Monthly fees upon execution (130,375 sq.ft.)	\$52,150 per month

The Permit Fee and any other amounts due hereunder are sometimes collectively referred to herein as "Fees" or "rent". The actual square footage occupied of 130,375 upon execution is shown on Exhibit A-1. In the event the portion of the Premises occupied by Permittee are increased or decreased, the Fees shall be increased or decreased proportionally, based on \$.40/sq.ft./month.

**b) Concession Fee**

Not used.

**c) Utility Charge**

Not used.

**d) Processing Fee**

Not used.

**e) Payment of Fees**

Fees shall be paid to Permittor at:

County of San Mateo  
Airports Division  
Attn: Accounts Receivable (Ref Permit #)  
620 Airport Way – Ste. 10  
San Carlos, CA 94070

or to such other person or at such other place as Permittor may from time to time designate in writing.

Permitter shall not be required to invoice Permittee for payment of fees due hereunder. Permittee shall be responsible for payment of all fees due without prior notice or demand. Any amount due which is not paid shall be subject to late fees as set forth in Section 6f (Interest on Late Payment) and Section 11 (Late Charges and Returned Check Charge).

**f) Interest on Late Payment**

Any Fees, if not paid within five calendar (5) days following the due date, shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under law (the "Interest Rate"). However, interest shall not be payable on late charges incurred by Permittee as set forth in Section 11 (Late Charges And Returned Check Charge) hereof, nor on any amounts on which late charges are paid by Permittee to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Permittee.

**7) AUTOMATIC EXTENSIONS**

This Permit shall be automatically extended (the "Extension Option") for each of four (4) additional one (1) year periods (each, an "Extended Term") unless Permittee terminates the Permit in accordance with the terms of section 20 herein. The first Extended Term took effect July 1, 2020. Each Extended Term shall be subject to cancellation or termination in accordance with all the terms and conditions contained in this Permit.

**8) FEE ADJUSTMENTS**

Effective as of July 1, 2020, and on each July 1 thereafter, the Permit Fee shall increase automatically by three percent (3%) above the Permit Fee applicable during the prior twelve-month period.

**9) GROSS REVENUES**

Not used.

**10) ACCOUNTS AND RECORDS**

Not used.

**11) LATE CHARGES AND RETURNED CHECK CHARGE**

Permittee hereby acknowledges that late payment by Permittee to Permitter of rent or other sums due hereunder will cause Permitter to incur costs not contemplated by this Permit, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative

processing of delinquent notices and accounting charges. Accordingly, if any installment of rent or of a sum due from Permittee is not received by Permittor within ten calendar (10) days after said amount is due, that payment shall be delinquent and Permittee shall pay to Permittor, in addition to interest as set forth in Section 6 hereof, a late charge equal to six percent (6%) of the total balance due at that time or Fifty Dollars (\$50.00), whichever is greater. A late charge shall be applied for each month a payment is delinquent. The parties hereby agree that such late charges represent a fair and reasonable estimate of the cost that Permittor will incur by reason of the late payment by Permittee. Acceptance of late charges by Permittor shall in no event constitute a waiver of Permittee's default with respect to such overdue amount, nor prevent Permittor from exercising any of the other rights and remedies granted hereunder.

Permittee agrees to pay Permittor a special handling charge of Fifty Dollars (\$50.00) for any check dishonored by the bank for any reason. This charge shall be added to and become part of Permittee's obligations hereunder, and shall be in addition to any charge for late payment provided for herein. Permittee agrees to pay Permittor immediately upon request any and all charges for dishonored checks.

## **12) USE**

Permittee shall use the Permit Premises as is necessary to properly support and monitor the tunnel being constructed using an Earth Pressure Balance Tunnel Boring Machine (the "TBM") and to properly construct the TBM Retrieval shaft using steel sheet pile wall support of excavation and reinforced concrete base slab, all in conjunction with the Bair Island Easement and part of Permittee's RESCU Program Gravity Pipeline Project (the "Project").

Permittee may install and construct temporary site improvements including perimeter fencing, gate, cement/lime treated soil, aggregate base, concrete equipment pads, paving, utilities and stormwater improvements.

Except as allowed pursuant to the Bair Island Easement, all improvements and personal property installed or constructed pursuant to this Permit are to be removed upon completion of the Project unless specifically authorized in writing by Permittor (in this Permit or elsewhere) to remain.

It is understood that consistent with the Bair Island Easement, Permittee desires to leave in place portions of the launch shaft; access and air inlet structures; a vortex drop structure; instrumentation for monitoring flows; vortex generator; and a fence with gates to surround the aforementioned improvements. Permittor will allow such improvements to remain only to the extent that such improvements do not negatively impact Permittor's use or access to its Property and do not negatively impact its San Carlos Airport operations. Permittor shall determine whether or not leaving any particular improvement in place will have such a negative impact and may refuse to allow

such improvement to remain or may impose restrictions or limitations on the extent or location of the improvement in order for it to remain.

Permittee shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way negatively impact airport operations or increase the existing rate of or affect any fire or other insurance upon the Premises or any of its contents, or cause cancellation of any insurance policy covering the Premises or any part thereof or any of its contents. The foregoing includes prohibiting Permittee from using, installing or maintaining improvements, equipment or cranes that in any way negatively impact airport operations. Permittee shall not use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose, nor shall Permittee cause, maintain or permit any nuisance in, on or about the Premises. Permittee shall not commit or suffer to be committed any waste in or upon the Premises.

Permittee shall not use or permit the Premises to be used for any purpose or use other than as described herein without the prior written consent of County.

Permittee's use and occupation of the Premises is subject to the terms and conditions specified in Exhibit B (Standard Provisions for All Leases, Use and Other Agreements and Permits) and Exhibit C (Special Requirements/Conditions) attached hereto.

#### **a) Operations**

Notwithstanding any other permission granted in this Permit, Permittee shall not do anything in, on, under, or about the Premises or the Property that could cause damage to or interference with County's operation of the San Carlos Airport or any facilities, improvements, or other property located in, on, under, or about the Property. Permittee agrees, understands and acknowledges that, even if the FAA approves of Permittee's activity, if Permitter determines that the activity interferes with the operation of the San Carlos Airport (including without limitation, the runways and/or taxiways associated with said airport), then Permittee shall not undertake such activity without the prior written consent of Permitter, which consent may withheld or be subject to conditions specified by Permitter. Permittee shall take reasonable measures to minimize noise, dust, debris and other impacts to the Property, its users and neighbors. Permitter shall have the right, throughout the Term, to review Permittee's operations and require reasonable modifications as necessary to meet the requirements of this section.

#### **b) Safety**

Safety shall be paramount at all times. Permittee shall ensure that its operations, activities, use of the Premises and those activities of its agents and employees, comply with any and all applicable local, state and federal requirements and are in accordance with safe and acceptable practices and

procedures that are subject to the reasonable approval of the Permittor. Permittee may have security personnel on the Premises at all times throughout the Term to ensure the safety and security of the Premises. There shall be no overnight habitation of the Premises, though such prohibition shall not preclude 24-hour presence of security personnel on the Premises.

**c) Premises Condition**

PERMITTEE ACKNOWLEDGES AND AGREES THAT THE PREMISES ARE ACCEPTED IN THEIR "AS IS" CONDITION, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, AND SUBJECT TO ALL APPLICABLE LAWS, RULES AND ORDINANCES GOVERNING THEIR USE, OCCUPANCY AND POSSESSION. PERMITTEE REPRESENTS AND WARRANTS TO PERMITTOR THAT PERMITTEE HAS INVESTIGATED AND INSPECTED, EITHER INDEPENDENTLY OR THROUGH AGENTS OF PERMITTEE'S OWN CHOOSING, THE CONDITION OF THE PREMISES AND THE SUITABILITY OF THE PREMISES FOR PERMITTEE'S INTENDED USE. PERMITTEE HAS DETERMINED, BASED SOLELY ON ITS OWN INVESTIGATION, THAT THE PREMISES ARE SUITABLE FOR PERMITTEE'S BUSINESS AND INTENDED USE. PERMITTEE ACKNOWLEDGES AND AGREES THAT NEITHER PERMITTOR NOR ANY OF ITS AGENTS HAVE MADE, AND PERMITTOR HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE RENTABLE AREA OF THE PREMISES, THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PREMISES OR THE PROPERTY, THE PRESENT OR FUTURE SUITABILITY OF THE PREMISES FOR PERMITTEE'S BUSINESS, OR ANY OTHER MATTER WHATSOEVER RELATING TO THE PREMISES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**13) PERMITTEE IMPROVEMENTS**

Permittee may not scrape or dispose of vegetation or debris within the Premises during the Term hereof without first obtaining the written permission of Permittor. Any such work shall be coordinated with Permittor and shall be done in a manner that ensures proper drainage and dust control measures are maintained at all times. Permittee shall be responsible for any and all permits or approvals associated with this activity and comply with all applicable laws, rules and regulations. Except as set forth in this Permit or the Bair Island Easement, Permittee shall not make any other improvements or modifications to the Property or Premises without the prior written consent of Permittor, which consent shall not be unreasonably withheld.

#### **14) MOTOR VEHICLES/PARKING**

Permittee shall ensure that its vehicles and those of its agents and customers are parked on the Premises or in areas and locations as approved by the Permitter. Permittee shall have the non-exclusive use of the general parking areas of the Property for the reasonable use of its employees, invitees, and other guests. All such parking shall be subject to the limitation, rules and regulations established from time to time by Permitter. No vehicle offered for sale by Permittee shall be parked or stored in the general parking areas of the Property.

Camper trucks, trailers and/or other temporary living facilities may not be parked overnight in any area of the Property without written authorization from the Permitter. No overnight camping is permitted.

#### **15) UTILITIES**

During the term of this Permit, Permittee shall be responsible for providing, at its own expense, all utilities and services, including, but not limited to electricity, water, sewer, gas, trash and waste disposal, required for the Premises and any improvements, alterations or additions thereon.

#### **16) JANITORIAL SERVICES**

Not used.

#### **17) ASSESSMENTS/TAXES**

Permittee shall pay all federal, state and local taxes that are levied or required with respect to its employees, such as, but not limited to, social security and workers' compensation. As between Permittee and Permitter, Permittee shall be responsible for the payment of all sales or excise taxes on its operation. Permittee shall also be liable for any special assessments levied against the property due to Permittee's use of the Premises. Permittee reserves the right to challenge any tax and special assessments.

Permittee shall pay, or cause to be paid, before delinquency, any and all taxes and assessments levied against Permittee's personal property in the Premises.

#### **18) POSSESSORY INTEREST TAX**

Permittee recognizes and understands in executing this Permit that its interest in the Premises created herein may be subject to a "possessory interest tax" that the County Assessor may impose on such interest, and any such tax would be the liability of and be paid solely by Permittee in addition to Fees and other charges due hereunder. Permittee agrees to pay promptly when due, any possessory interest tax imposed on its interest in the Premises.

## **19) MAINTENANCE AND REPAIRS**

Throughout the term of this Permit, Permittee shall, at Permittee's sole expense, maintain the Premises and any improvements within the Premises or related to the Permittee's operation, equipment and other personal property thereon, in good sanitary order, condition and repair in accordance with all applicable laws, rules, ordinances, orders and regulations of (1) federal, state, county, municipal or other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials; (2) the insurance underwriting board or insurance inspection bureau having or claiming jurisdiction; and (3) all insurance companies insuring all or any part of the Premises, or improvements, equipment, and other personal property at the Premises. All repairs and maintenance shall be the sole duty of the Permittee and at the Permittee's sole expense.

Permittee shall protect the Premises and the Property from damage caused by Permittee's operations and shall repair at its own expense any and all damage to the Property and Premises, to the extent such damage has been caused by Permittee, its agents, employees or contractors.

Neither offensive or refuse matter, nor any substance constituting an unnecessary, unreasonable or unlawful fire hazard shall ever be permitted to accumulate or remain at the Premises. The Premises shall be kept at all times in an orderly manner to the satisfaction of Permittor.

## **20) EARLY TERMINATION**

Permittee shall have the right to terminate this Permit without any penalties, fee or liability by giving the Permittor not less than one hundred twenty (120) days written notice ("the Termination - Notice").

## **21) DAMAGE OR DESTRUCTION**

If, during the term of this Permit, any improvements that are a part of the Premises are damaged from any cause, rendering the Premises totally or partially inaccessible or unusable, Permittor at its election, may either terminate this Permit or restore such improvements within a reasonable time and, if so restored, this Permit shall continue in full force and effect. If then existing laws do not permit restoration, either party may terminate this Permit immediately by giving notice to the other party.

In case of damage there shall be an abatement or reduction of rent, between the date of the damage and the date of completion of restoration, based on the extent to which the damage interferes with Permittee's use of the Premises. To the extent any damage to said improvements is due to the fault or neglect of Permittee, its agents, contractors, employees or invitees, there shall not be an abatement or reduction of rent to such extent. Additionally, Permittee shall be responsible for the cost of any required restoration or repairs of damages

caused by the fault or neglect of Permittee, its agents, contractors, employees or invitees.

Permitter shall not be required to restore or replace any property installed in the Premises by Permittee. Permittee shall not be entitled to any compensation or damages from Permitter for loss of the use of the whole or any part of the Premises, Permittee's personal property, loss of revenue, or any inconvenience or annoyance occasioned by such damage or restoration.

## **22) SECURITY DEPOSIT**

Not used.

## **23) SURRENDER OF PREMISES**

At the expiration or earlier termination of this Permit, Permittee shall surrender to Permitter possession of the Premises. Permittee shall leave the surrendered Premises in substantially the same condition as when delivered to Permittee, except as may be specifically provided in accordance with Section 12, Section 13 and Section 27 of this Permit.

Prior to surrendering the Premises, Permittee and Permitter shall perform a site walk to identify any environmental or physical damage and to develop a plan for Permittee to restore the Premises at Permittee's sole cost and expense; including but not limited to, the removal of excess material and modification of the Premises to repair drainage issues caused by the Permittee's use of the Premises. All property that Permittee abandons on the Premises after termination, shall, at Permitter's election, become Permitter's property at the expiration or termination of this Permit.

## **24) ENTRY BY PERMITTOR**

Permitter reserves and shall at any and all reasonable times have the right to enter the Premises, upon reasonable notice to Permittee, inspect the same, supply any services to be provided by Permitter to Permittee hereunder, if any; to show the Premises to prospective purchasers or permittees; to post notices of non-responsibility; and to alter, improve, repair or restore the Premises as Permitter may deem necessary or desirable, without abatement of rent. For each of the aforesaid purposes, Permitter shall at all times have and retain a key with which to unlock all of the gates in, upon and about the Premises, excluding Permittee's buildings and below ground structures, vaults, cabinets, safes and files, and Permitter shall have the right to use any and all means which Permitter may deem proper to open said gates in an emergency, in order to obtain entry to the Premises without liability to except for any failure to exercise due care with respect to Permittee's property. Any entry to the Premises obtained by Permitter by any of said means, or otherwise shall not under any circumstances be construed or deemed to be a forcible or unlawful

entry into the Premises, or an eviction of Permittee from the Premises or any portion thereof.

## **25) RESERVATIONS**

This Permit shall at all times be subject to such easements or rights-of-way for such sewers, pipe lines, conduits, and for such telephone, telegraph, light, heat or power lines, as shall have been duly established or as may from time to time be reasonably determined by Permittor.

This Permit is subsequent to and subject to all prior exceptions, reservations, grants, easements, permits or licenses of any kind whatsoever as the same appear on record in the office of the County Recorder, County of San Mateo, State of California, or in the official records of said County and of the various departments thereof. Permittee covenants not to disturb the quiet and peaceful enjoyment of any and all parties having any legal right, title, interest or privilege in and to the Premises and that the use of the Premises by Permittee shall at all times be conducted with proper regard for such rights, titles, interests and privileges.

## **26) CONSENT OF PARTIES**

Whenever the consent, approval or permission of either party is required, that party shall not unreasonably delay or withhold such consent, approval or permission.

## **27) ALTERATIONS AND ADDITIONS**

Other than as specified herein or in the Bair Island Easement, Permittee shall not make any alterations or additions to the Premises without Permittor's prior written consent. In making any alterations or additions, Permittee shall comply with the following:

- a) Permittee shall submit reasonably detailed final plans and specifications and working drawings of the proposed alterations and the name of its contractor before the date it intends to commence the alterations.
- b) The alterations shall not be commenced until Permittor has received notice from Permittee stating the date the installation of the alterations is to commence so that Permittor can post and record an appropriate notice of non-responsibility.
- c) The alterations shall be approved by Permittor and all appropriate government agencies, and all applicable permits and authorizations shall be obtained before commencement of the alterations.
- d) All alterations shall be completed with due diligence in compliance with the plans and specifications and working drawings and all applicable laws.

## **28) DEFAULT**

### **a) Default by Permittee**

The occurrence of any one or more of the following events shall constitute a material default and breach of this Permit by Permittee:

- (i) The vacating or abandonment of the Premises by Permittee. (Failure to use or occupy the Premises for fifteen (15) consecutive days shall be deemed a vacation or abandonment.)
  
- (ii) The failure by Permittee to make any payment of Fees, or any other payment required to be made by Permittee hereunder, as and when due, where such failure shall continue for a period of ten (10) days after notice thereof by Permitter to Permittee.
  
- (iii) The failure by Permittee to observe or perform any of the terms, covenants or conditions of this Permit to be observed or performed by Permittee, other than described in Sub-sections (A (i)) and (A (ii)) hereinabove, where such failure shall continue for a period of thirty (30) days after notice thereof by Permitter to Permittee; provided, however, that if the nature of Permittee's default and breach is such that more than thirty (30) days are reasonably required for its cure, then Permittee shall not be deemed to be in default and breach if Permittee commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion within ninety (90) days.
  
- (ii) The making by Permittee of any general assignment or general arrangement for the benefit of creditors; or the filing by or against Permittee of a petition to have Permittee adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Permittee, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of Permittee's personal property at the Premises or of Permittee's interest in this Permit, where possession is not restored to Permittee within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of a Permittee's personal property at the Premises or of Permittee's interest in this Permit, where such seizure is not discharged within thirty (30) days.

## **b) Permitter's Remedies**

In the event of any such default and breach by Permittee described hereinabove, Permitter may at any time thereafter:

- (i) Terminate Permittee's right to possession and/or use of the Premises by any lawful means, in which case this Permit shall terminate and Permittee shall immediately surrender possession of the Premises to Permitter. In the event Permittee shall have abandoned the Premises, Permitter shall have the option to either (1) take possession of the Premises and recover from Permittee the amount specified in this Section, or (2) proceed under the provisions of the following Sub-section (ii).
- (ii) Maintain Permittee's right to possession, in which case this Permit shall continue in effect whether or not Permittee shall have abandoned the Premises. In such event Permitter shall be entitled to enforce all of Permitter's rights and remedies under this Permit, including the right to recover the rent as it becomes due hereunder.
- (iii) Pursue any other remedy now or hereafter available to Permitter under applicable laws and judicial decisions.

## **c) Default by Permitter**

Permitter shall be in material default and breach of this Permit if it fails or refuses to perform any of the terms, covenants or conditions of this Permit that it is obligated to perform if the failure to perform is not cured within thirty (30) days after written notice of the default and breach has been given by Permittee to Permitter; provided, however, that if the default and breach of Permitter is such that more than thirty (30) days are reasonably required for its cure, then, Permitter shall not be deemed in default and breach if Permitter commences to cure the default within thirty (30) days after the written notice and thereafter diligently prosecutes such cure to completion within ninety (90) days.

## **d) Permittee's Remedies**

In the event of any such material default and breach by Permitter described hereinabove, Permittee may at any time thereafter: (a) Terminate this Permit with a written notice to Permitter and vacate the Premises on the date of termination; and/or (b) Pursue any other remedy now or hereafter available to Permittee under the applicable laws and judicial decisions.

## **e) California Law Notice Requirements**

The notice requirements set forth in this Section modifies and supersedes the notice requirements of the unlawful detainer statutes of California.

## **29) INDEMNIFICATION AND INSURANCE**

### **a) Hold Harmless**

Permittee shall at all times relieve, indemnify, protect and hold harmless Permitter, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of injuries to or death of any person, including Permittee, or damage to property of any kind whatsoever and to whomever belonging, that may in whole or in part arise from, or be caused by:

- (i) The operation, maintenance, use, or occupation of the Premises and defects on the property in which the Permitter has no control;
- (ii) The acts or omissions of Permittee, its officers, agents, employees, servants, invitees or permittees; or
- (iii) The failure of Permittee, its officers, agents, employees, servants, invitees or permittees, to observe or abide by any of the terms, covenants and conditions of this Permit or any applicable federal, state, county or municipal law, rule, or regulation.
- (iv) Any other loss or cost, including but not limited to, the concurrent active or passive negligence of County, its officers, agents, employees, or servants resulting from the performance of any work required of Permittee or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which the County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Permittee to relieve, indemnify, protect and hold harmless, as set forth hereinabove, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

### **b) Fire and Extended Coverage Insurance**

Permittee at its cost shall maintain on the improvements or property that are a part of the Premises a policy of standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, to the extent of at least the replacement value of the improvements or property, which are a part of the Premises. The insurance policy shall be issued in the names of Permitter and Permittee as their interests appear. The insurance policy shall provide that any proceeds shall be payable to Permitter.

Permittee shall secure, and shall maintain at all times during the term of this Permit, insurance against damage or destruction by fire, windstorm, riot or civil commotion on Permittee's improvements or property at the Premises, if any, in the full amount of their replacement value, with such provision in the policies issued to cover the same, or in riders attached thereto, as shall provide for payment for losses thereunder sustained by Permittee; the proceeds of said policies to be held in trust by any reputable bank or trust

company. Permitter shall release its interest, if any, in all proceeds from the insurance policy for such payments.

**c) Liability and Property Damage Insurance**

Permittee at its cost shall maintain Comprehensive Liability insurance for the following coverages with the following limits insuring against all liability of Permittee and its authorized representatives arising out of and in connection with Permittee's use or occupancy of the Premises:

- (i) General Liability with a minimum limit of \$2,000,000 Combined Single Limit (CSL) each occurrence; and
- (ii) For Permittees who operate vehicles on the Premises, Commercial Automobile Liability for all Owned, Non-Owned and Hired automobiles with a minimum limit of \$1,000,000 each accident;
- (iii) All Comprehensive Liability insurance shall insure performance by Permittee of the Hold Harmless Sub-section of this Permit;
- (iv) Permitter shall be named as "additionally insured";
- (v) All required insurance shall contain a Separation of Insureds or Severability of Interests provision; and
- (vi) The policy shall not be cancelled or non-renewed unless the Permitter has received 30 days prior written notice. (Ten days prior notice in the event of cancellation for nonpayment of premium is acceptable). Written notice shall be sent to: County of San Mateo, Attn: Airport Manager, 620 Airport Drive, San Carlos, CA 94070.

**d) Workers' Compensation and Employer's Liability Insurance**

During the entire term of this Permit, Permittee shall have in effect Workers' Compensation coverage providing full statutory benefits and employer's liability in the minimum amount of \$1,000,000. In executing this Permit, Permittee makes the following certification:

*I am aware of the provisions of Section 3700 of the California Labor Code, which require every employer (1) to be insured against liability for Workers' Compensation or (2) to undertake self-insurance in accordance with the provisions of the Code. I will comply with such provisions.*

**e) Miscellaneous Insurance Provisions**

Permittee shall pay the premiums for maintaining the insurance required hereinabove. All the insurance required under this Permit shall:

- (i) Be issued by insurance companies authorized to do business in the State of California, with a financial rating of at least an AV status as rated in the most recent edition of Best's Insurance Reports. Coverage provided by State Fund Insurance shall satisfy this requirement.
- (ii) Be issued as a primary policy.

- (iii) Contain an endorsement requiring thirty (30) days' notice from the insurance company to both parties before cancellation or change in the coverage, scope, or amount of any policy.
- (iv) Permitter shall be named as "additionally insured" on each policy.

**f) Certificate of Insurance**

A certificate of insurance, together with evidence of payment of premium, shall be deposited with Permitter at the commencement of this Permit, and on renewal of the policy not less than twenty (20) days before expiration of each policy.

In the event Permittee fails to deliver the certificate of insurance verifying insurance coverage as required in this Section, Permitter shall have the option, after a ten (10) day notice to Permittee requesting a certificate, either (a) to terminate this Permit immediately thereafter with a notice to Permittee, or (b) to take out all or part of the required insurance and pay the premium thereon on behalf of Permittee. If Permitter opts to take out the insurance on behalf of Permittee, the cost of the premium paid by Permitter shall be deemed additional rent due and payable by Permittee with the next regular rent payment.

**g) Increase in Coverage**

Permitter reserves the right to require at any time that the required public liability and property damage insurance minimum coverage be increased in accordance with standard County of San Mateo Risk Management practice in effect at the time the increase is required. Permittee shall be given at thirty (30) days' notice of the required increase.

**30) HAZARDOUS MATERIALS ACTIVITY**

Permittee shall not cause or permit any hazardous material to be brought upon, kept, stored, staged, generated or disposed of in, on or about the Premises or the Property. Permittee shall give immediate written notice to Permitter of: (a) any action, proceeding or inquiry by any governmental authority (including, without limitation, the California State Department of Health Services, the State or any Regional Water Quality Control Board, San Mateo County Environmental Health, the Bay Area Air Quality Management district, California Coastal Commission, or any local governmental entity) against Permittee with respect to the presence or release or suspected presence or release of hazardous material on or about the Premises or the Property, or the migration thereof from or to other property at or neighboring the San Carlos Airport; (b) all demands or claims made or threatened by any third party against Permittee relating to any loss or injury resulting from any hazardous materials on or about the Premises or the Property; (c) any release of hazardous material on or about

the Premises or the Property due to the rights granted herein that may require any investigation or remediation; and (d) all matters of which Permittee is required to give notice pursuant to Section 25359.7 of the California Health and Safety Code.

Nothing in the foregoing paragraph shall preclude Permittee from using materials necessary to perform the permitted uses of the Premises pursuant to section 12 hereof so long as any such hazardous materials are used, stored, and disposed of in strict accordance with any and all applicable law, including but not limited to, California Health and Safety Code, Chapters 6.5, Sections 25100-25249, California Code of Regulations Title 26 and Code of Federal Regulations Section 40 Parts 240-281, and any and all Storm Water Pollution Prevention Plans that apply to the Premises or the activities of Permittee on the Premises, as amended from time to time.

Permittee shall be responsible for all costs and efforts associated with investigating and remediating any environmental contamination whatsoever caused by Permittee on or about the Premises or Property. Permittee shall pay to the Permitter any required fees, as may be necessary, related to the investigation and remediation of any environmental contamination as contemplated under this Section. Permittee may not store, handle or generate hazardous materials/waste/underground tanks on the property unless Permittee has completed and filed a San Mateo County Hazardous Materials Release Response Plan and Inventory ("Business Plan") with the San Mateo County Environmental Health Department. Permittee shall be in default hereunder in the event of Permittee's failure to (1) file the Business Plan, (2) follow the Business Plan, and (3) comply with applicable State and Federal statutes regarding the handling of hazardous materials/waste/underground tanks. In addition, Permitter may exercise any rights applicable under State and Federal law, in regards to requiring Permittee to be responsible for disposal or removal of the hazardous materials/waste/underground tanks in a safe manner.

Hazardous material means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the work place or the environment. Hazardous materials include, but are not limited to, hazardous substances, hazardous waste, and any material which a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the work place or the environment. Examples of such hazardous materials are, but are not limited to: waste oil, solvents, gasoline and compressed gases.

Consistent with Section 24 above, Permitter shall have the right to inspect the Premises to ensure Permittee's compliance with the provisions of this Section 30, and charge inspection fees in accordance with applicable local, State and federal statutes.

If Permittee does not intend to and will not store, handle hazardous materials/underground tanks or general hazardous waste, then Permittee must complete and file a "Hazardous Materials Negative Response Form" to that effect with the San Mateo County Environmental Health Department. If, at any time during the term of this Agreement, Permittee commences activity that would involve the handling, storage or generation of hazardous materials/waste/underground tanks, Permittee must follow the directives set forth above.

### **31) COMPLIANCE WITH AIRPORT RULES AND REGULATIONS AND FAA STANDARD PROVISIONS**

Permittee agrees to comply with all San Mateo County Airport ordinances, rules and regulations, and at all times to cooperate with County in its operation and management of the San Carlos Airport. Permittee shall notify all users of its facilities of all applicable rules and regulations.

Permittee shall comply with the standard provisions for all leases of airport land promulgated by the Federal Aviation Administration (FAA), as set forth in the attached Exhibit B, and as those provisions may be revised from time to time.

### **32) NON-ABROGATION OF UNITED STATES GOVERNMENT RIGHTS**

The provisions of this Agreement in no way abrogate any rights vested in the United States of America relative to the airport as such rights exist between the United States of America and the County of San Mateo.

### **33) HOLDING OVER**

If Permittee holds over after the expiration or earlier termination of the term hereof without the express written consent of Permitter, Permittee shall become a permittee at sufferance only, at the monthly Fee rate of one hundred fifty per cent (150%) of the Fee in effect upon the date of such expiration and otherwise upon the terms, covenants and conditions herein specified, so far as applicable. Acceptance by Permitter of monthly payments after such expiration or earlier termination shall not constitute a holdover hereunder or result in a renewal. The foregoing provisions of this paragraph are in addition to and do not affect Permitter's right of re-entry or any other rights of Permitter hereunder or as otherwise provided by law.

### **34) ASSIGNMENT OF PERMIT**

Permittee shall not, either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Permit or any interest therein, and shall not convey any right or privilege appurtenant to the Premises, or suffer any other person (the employees, agents, contractors, subcontractors, servants and invitees of Permittee excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of Permitter, which consent shall not be unreasonably withheld .and a consent to one assignment,

occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, occupation or use by another person. Any such assignment, occupation or use without such consent shall be voidable, and shall, at the option of Permittor, constitute a default under this Permit.

If Permittee is a corporation, any dissolution, merger, consolidation, or other reorganization of Permittee, or the sale or other transfer of a controlling percentage of the capital stock of Permittee, or the sale of at least 51 percent of the value of the assets of Permittee, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least 10% of the total combined voting power of all classes of Permittee's capital stock issued, outstanding, and entitled to vote for the election of directors. This paragraph shall not apply to corporations the stock of which is traded through an exchange or over the counter.

Permittee shall pay a fee of One Thousand Dollars (\$1,000.00) per transaction, for Permittor's review and processing of documents regarding any proposed assignment or sublease. Fee is due upon request for an assignment or sublease.

The sublease or assignment agreement, if any, as the case may be, after approval by Permittor, shall not be amended without Permittor's prior written consent, and shall contain a provision directing the assignee or subtenant to pay the rent and other sums due thereunder directly to Permittor upon receiving written notice from Permittor that Permittee is in default under this Permit with respect to the payment of Rent. A consent to subletting, assignment or other occupation or use shall in no way relieve Permittee of any liability or responsibility under this Permit.

### **35) SAN MATEO COUNTY SMOKING ORDINANCE**

Permittee is aware that the County of San Mateo Ordinance Code, Chapter 4.96, prohibits smoking in all County facilities whether owned or leased. Permittee understands that said Ordinance authorizes County to enforce the provisions contained therein and Permittee agrees to enforce the provisions of said ordinance on the Premises.

### **36) LAWS, RULES, REGULATIONS AND PERMITS**

Permittee shall construct any improvements, use, maintain and occupy the Premises in compliance with all applicable laws, rules, and regulations. These include, but are not limited to the Americans With Disabilities Act of 1990 and Title 24 of the California Code of Regulations and all other applicable federal, state, local and administrative laws, rules, regulations, orders and requirements intended to provide equal accessibility for persons with disabilities (collectively, "Disabilities Laws"), and any applicable City, County, State or federal

ordinances, rules, policies, laws and regulations, including but not limited to the rules and regulations promulgated by the FAA, and any state land use requirements. Permittee is responsible for ascertaining the need for and obtaining all required permits, licenses, etc., for all of its activities on the Premises. The cost for all permits, licenses, etc., shall be borne solely by Permittee.

Permittee shall perform any activity authorized hereunder in compliance with the FAA's Airport Construction Standards and Airport Design and Engineering Standards in addition to the Airport's Land Use Compatibility Plan, as amended from time to time.

### **37) PERSONAL PROPERTY**

Permittee's personal property shall include equipment, furniture, merchandise, and movable property placed in the Premises by Permittee, including trade fixtures. Trade fixtures include any property installed in or on the Premises by Permittee for purposes of trade, manufacture, ornament, or related use.

### **38) NOTICES**

Any notice, demand, request, consent, approval, waiver, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid mail, and if given by mail shall be deemed sufficiently given when sent by registered or certified mail. Any notice, demand, request, consent, approval, waiver, or communication that either party desires or is required to give by mail to the other party shall be addressed to the other party at the address set forth in Section 1 (Basic Permit Information) of this Permit. Either party may change its address by notifying the other party in writing pursuant to this Section 38 of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this Section.

### **39) LIENS**

Permittee shall keep the Premises, free from any liens, including liens arising out of the work performed, materials furnished or obligations incurred by Permittee.

### **40) PAYMENT OF PERCENTAGE SHARE OF OPERATING EXPENSES**

Not used.

## **41) GENERAL PROVISIONS.**

### **a) Compliance with Law**

Permittee shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Permittee shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and with the requirements of any board of fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the condition, use or occupancy of the Premises. The judgment of any court of competent jurisdiction or the admission of Permittee in any action against Permittee, whether Permitter be a party thereto or not, that Permittee has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Permitter and Permittee.

### **b) Authority of Parties**

- (i) Each individual executing this Permit on behalf of a party represents and warrants that he or she is duly authorized to execute and deliver this Permit on behalf of said entity and that this Permit is binding upon the entity in accordance with its terms.
- (ii) The County Manager, or the designee of the County Manager, shall be the only authorized agent of the County of San Mateo for purposes of giving any notices or exercising any rights, options, privileges or obligations of the County of San Mateo under this Permit. This Permit shall not be valid unless executed by the President of the Board of Supervisors of the County of San Mateo pursuant to a Resolution adopted in accordance with the California Government Code.

### **c) Other Terms**

Clauses, plats, exhibits and riders, if any, initialed and dated by Permitter and Permittee and endorsed on or affixed to this Permit are a part hereof and incorporated herein by reference.

### **d) Waiver**

The waiver by either party of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Fees hereunder by Permitter shall not be deemed to be a waiver of any preceding

breach by Permittee of any term, covenant or condition of this Permit, other than the failure of the Permittee to pay the particular Fees so accepted, regardless of Permitter's knowledge of such preceding breach at the time of the acceptance of such rent.

**e) Joint Obligation**

"Party" shall mean Permitter or Permittee; and if there be more than one Permittee or Permitter, the obligations hereunder imposed upon Permittees or Permitters shall be joint and several.

**f) Time**

Time is of the essence of this Permit and each and all of its provisions in which performance is a factor.

**g) Successors and Assigns**

The terms, covenants and conditions herein contained, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties hereto.

**h) Recordation**

Neither Permitter nor Permittee shall record this Permit.

**i) Quiet Possession**

Upon Permittee paying the Fees and other charges reserved hereunder and observing and performing all of the terms, covenants and conditions on Permittee's part to be observed and performed hereunder, Permittee shall have quiet possession of the Premises for the entire term hereof, subject to all the provisions of this Permit.

**j) Prior Agreements**

Except as may be set forth in the North of Holly Easement, this Permit contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Permit, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Permit may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. This Permit shall not be effective or binding on any party until fully executed by both parties hereto.

**k) Inability to Perform**

This Permit and the obligations of Permittee hereunder shall not be affected or impaired because Permittor is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, labor troubles, acts of God, or any other cause beyond the reasonable control of Permittor.

**l) Negation of Partnership**

Permittor shall not become or be deemed a partner or a joint venturer with Permittee by reasons of the provisions of this Permit. Nor shall Permittor be responsible or liable in any way in connection with the Project.

**m) Sale or Transfer of Premises**

In the event of any sale or transfer of the Premises by Permittor, Permittor shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Permit arising out of any act, occurrence or omission occurring after the consummation of such sale or transfer; and the purchaser or transferee, at such sale or transfer or any subsequent sale or transfer of the Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties or their successors in interest or between the parties and any such purchaser or transferee, to have assumed and agreed to carry out any and all of the covenants and obligations and agreed to carry out any and all of the covenants and obligations of Permittor under this permit.

**n) Name**

Permittee shall not use the name of the Premises or of the development, building or facility in which the Premises may be situated for any purpose other than as an address of the business to be conducted by Permittee in the Premises.

**o) Cumulative Remedies**

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

**p) Signs and Auctions**

Other than required and appropriate signs for an active construction and staging site, Permittee shall not place any sign upon the Premises or conduct any auction thereon without Permittor's prior written consent.

**q) Provisions, Covenants and Conditions**

All provisions herein, whether covenants or conditions, on the part of either party shall be deemed to be both covenants and conditions.

**r) Captions, Table of Contents**

The captions and the Table of Contents of this Permit (if any) shall have no effect on the interpretation of this Permit.

**s) Payments in U.S. Money**

Fees and all sums payable under this Permit must be paid in lawful money of the United States of America.

**t) Singular and Plural**

When required by the context of this Permit, the singular shall include the plural.

**u) Choice of Law**

This Permit shall be construed, interpreted and governed in accordance with the laws of the State of California.

**v) Brokers**

Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the permit contemplated herein except as identified in the Basic Permit Information, whose commission, if any is due, shall be paid pursuant to a separate written agreement between such broker and the party through which such broker contracted. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall indemnify the other party from any and all Claims incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Permit.

**w) Severability**

If any provision of this Permit or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Permit, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of

this Permit shall be valid and be enforceable to the fullest extent permitted by law.

**x) Venue**

The Venue for any court action to interpret or enforce this agreement or to litigate any claim arising out of this agreement shall be had in California State Superior Court of the County of San Mateo.

IN WITNESS WHEREOF, Permittor and Permittee have executed this Permit effective as of July 1, 2019.

PERMITTEE:

**SILICION VALLEY CLEAN WATER**

DocuSigned by:  
*Teresa Herrera*  
By \_\_\_\_\_  
7DC407C4931D40E...  
Teresa Herrera  
Manager, SVCW

Resolution No. SVCW 21-05

DocuSigned by:  
*Warren Lieberman*  
Attest: \_\_\_\_\_  
3D95D9FB83DE439  
Warren Lieberman  
Secretary, SVCW

PERMITTOR:

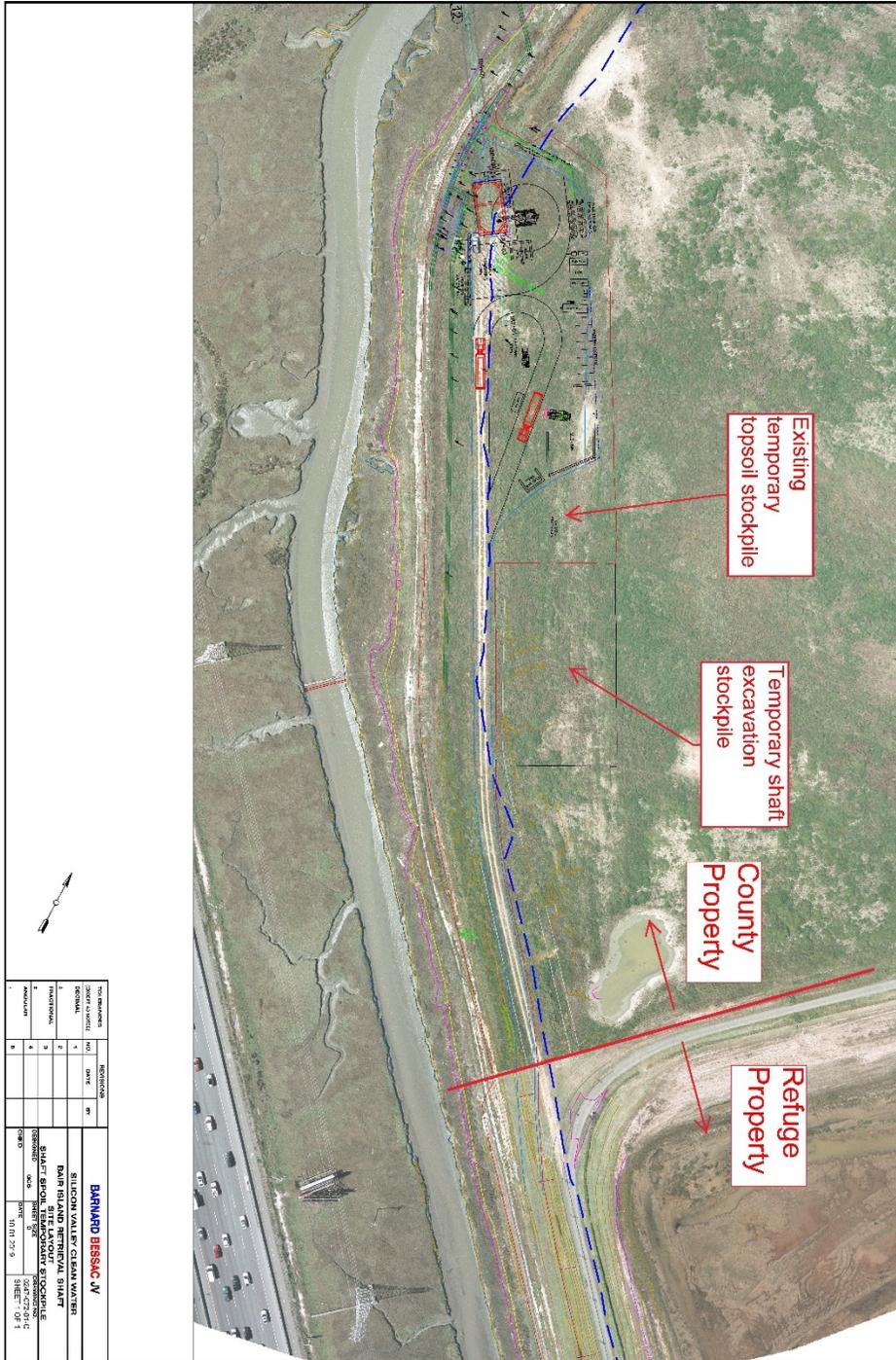
**COUNTY OF SAN MATEO, a Political  
Subdivision of the State of California**

By \_\_\_\_\_  
David J. Canepa, President  
Board of Supervisors

Resolution No. \_\_\_\_\_

Attest: \_\_\_\_\_

## Exhibit A Permit Premises



**Exhibit A-1**  
**PERMIT PREMISES**  
as of October 2, 2019



**EXHIBIT B**  
**STANDARD PROVISIONS FOR ALL LEASES,**  
**USE, AND OTHER AGREEMENTS AND PERMITS**  
**SAN MATEO COUNTY AIRPORTS**

1. Tenant, which for purposes of this Exhibit B may include Permittees or Licensees, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree "as a covenant running with the land" that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, agreement or permit for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
2. Tenant for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, sex, sexual orientation, color, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the lands and furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Tenant shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, CFR, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
3. In the event of breach of any of the above nondiscrimination covenants, Permitter may terminate the lease, agreement or permit and re-enter and repossess the land and the facilities thereon and hold them as if the lease, agreement or permit had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed, including expiration of appeal rights.
4. Tenant shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users and shall charge fair, reasonable and not

unjustly discriminatory prices for each unit or service; provided that Tenant may make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5. Non-compliance with Provision 4 above shall constitute a material breach of the lease, agreement or permit. In the event of such non-compliance, Permitter may terminate this lease, agreement or permit and the estate hereby created without liability thereof; or, at the election of Permitter or the United States either or both of these governments may judicially enforce the provision.
6. Permitter may further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of Tenant and without interference or hindrance.
7. Permitter may, but shall not be obligated to Tenant to, maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport. Permitter also may direct and control the activities of Tenant in this regard.
8. The lease, agreement or permit shall be subordinate to the provisions and requirements of any existing or future agreement between County and the United States relative to the development, operation or maintenance of the airport.
9. There is hereby reserved to Permitter, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises covered by the lease, agreement or permit. This public right of flight shall include the right to cause in this airspace any noise inherent in the operation of any aircraft used for navigation of flight through the airspace or to land at, take off from or operate on the San Carlos or Half Moon Bay Airport, as the case may be.
10. Tenant shall comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations if future construction of a building is planned for the premises covered by the lease, agreement or permit or in the event of any planned modification or alteration of any present or future building or structure on the premises.
11. Tenant, by accepting this lease, agreement or permit, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on any land leased that would be in conflict with the provisions of Part 77 of the Federal Aviation regulations. If these covenants are breached, County may enter upon the land and remove the offending structure or object and cut the offending tree, all of which shall be at Tenant's expense.
12. Tenant, by accepting this lease, agreement or permit, agrees for itself, its successors and assigns that it will not make use of the premises covered by the lease, agreement or permit in any manner which might interfere with the landing and taking off of aircraft from the airport or otherwise constitute a hazard. If this

covenant is breached, County may enter upon the premises and cause the abatement of such interference at Tenant's expense.

13. Nothing contained in the lease, agreement or permit shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 (49 U.S.C. 1349A).
14. The lease, agreement or permit and all its provisions shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of the airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.
15. Tenant will conduct its programs and operate its facilities in accordance with the requirements of the Americans with Disabilities Act of 1992 and will assure that no qualified disabled person shall, solely by reason of his or her disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment. Tenant will conduct its programs and operate its facilities in compliance with all the requirements imposed by or pursuant to **49 CFR Part 27**.
16. Tenant shall insert the above provisions in any lease, agreement, contract, permit, etc., by which it grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises covered by the lease, agreement or permit, including any subleases, and hereby assures that the above provisions will be included in any agreement, contract, permit or further sub-lease granted or entered into by any sub-lessee of the Tenant.

## **EXHIBIT C**

### **SPECIAL REQUIREMENTS/CONDITIONS**

#### **TO AIRPORTS LEASE AGREEMENT WITH**

#### **SILICON VALLEY CLEAN WATER, INC.**

**In the event of any conflict between any provision of the Permit and this Exhibit C, the Permit provision shall prevail.**

#### **1. SAFETY**

Safety shall be paramount at all times. Permittee shall ensure that its agents, employees and customers safely coordinate all movements and activities on the Property to the satisfaction of the County. Permittee shall ensure that its operations and activities comply with local, state and federal requirements and are in accordance with safe and acceptable practices and procedures as determined in the County's reasonable judgment.

#### **2. LICENSES AND CERTIFICATIONS**

Permittee shall obtain all required licenses, certifications, permits, approvals and authorizations from all appropriate agencies for work performed and activities conducted under this Agreement.

#### **3. TRAINING**

Permittee shall properly educate and train all agents, employees and customers regarding airport safety and operating procedures prior to allowing access onto the airfield.

#### **4. PARKING**

Permittee shall ensure that its vehicles and those of its agents and customers are parked on the Premises or in areas and locations as approved by the County and are in compliance with Airport Parking Policies.

Camper trucks, trailers and/or other temporary living facilities may not be parked overnight in any area of the Airports without written authorization from the County. No overnight camping is permitted.

#### **5. STORAGE OF EQUIPMENT, VEHICLES AND MATERIALS**

Unless otherwise authorized herein, Permittee shall not store equipment, vehicles, boats, materials, pallets, boxes, etc. on the airport other than on the Premises or as approved by the County.

**6. REPAIRS** Permittee shall protect all property located on the Premises or on the Airport from Permittee's operations and shall repair, at its own expense, any and all damage to the Property of the County or to the Property of others on the Airport, to the extent such damage has been caused by Permittee, its agents or customers.

#### **7. STORMWATER COMPLIANCE**

The County has obtained a National Pollutant Discharge Elimination System ("NPDES") Permit from the Regional Water Quality Control Board, San Francisco Bay

Region ("RWQCB"), regarding stormwater discharge from the Airport, which includes stormwater discharge and runoff from the Airport. Without limitation of any other obligation of Permittee hereunder, Permittee shall comply with all laws, rules, regulations, requirements, administrative orders and/or programs imposed upon Permittee or County by the RWQCB or any other governmental entity, regarding runoff and stormwater discharge on the Airport. Permittee shall pay any cost that County incurs to take any compliance action on the Airport as a result of Permittee's failure to comply with such laws, regulations, requirements, administrative orders and/or programs. Permittee shall also pay, to the extent caused by Permittee's business on the Airport, County's costs to take any compliance action imposed upon County by the RWQCB or any other governmental entity.

Nothing in this section shall be interpreted as a waiver of any NPDES permits required by the RWQCB for activities not covered by the County's permit.

#### **8. DISCHARGE OF CONTAMINANTS**

Permittee, its agents and customers shall at no time discharge any hazardous material or substance onto the Airport. Waste oil and other contaminants shall be properly disposed of and at no time shall the Permittee use the waste oil tanks the County has provided for the non-commercial use of airport tenants.

#### **9. SECURITY/ACCESS**

Airport security shall be maintained at all times. Permittee shall take all reasonable steps to restrict unauthorized access onto airport property. All access and security procedures shall be coordinated with and approved by the County. Permittee shall ensure that all gates it uses remain closed and locked at all times and that any mechanical problems with the gates are promptly reported to the County. Access codes shall only be provided with discretion to persons wishing to enter airport property. First-time visitors should be directed to the airport office for instructions and to receive access codes. Permittee shall monitor and report any misuse of airport security codes immediately.

Permittee shall, at its own cost and expense, install temporary fencing and/or gates as may be required by the County to safely secure the Premises and prevent unauthorized or inadvertent access by its agents and customers on to the Airport taxiways or runway.

#### **10. SIGNAGE**

No permanent banners or signs of any kind may be installed or displayed on the airport without the written approval of the County. All approved signage shall comply with applicable Local and County requirements. Signs and banners installed without the written approval of the County will be removed and disposed of at Permittee's sole cost and expense.

#### **11. HOUSEKEEPING**

Permittee shall collect and remove from the airport all debris, trash, garbage, or other rubbish generated by Permittee, its agents or customers who may be on the Airport for any purpose connected with the Permittee's operation.

Permittee shall regularly dispose of pallets, crates and other shipping supplies at its facility. Permittee shall not dump waste or refuse on airport property or in facilities leased by another Permittee or vendor.

**12. TRASH AND RECYCLING REMOVAL**

Permittee shall dispose of all trash and recyclable materials in Permittee's own receptacles. To the extent possible, Permittee shall not dispose of recyclable materials in dumpsters or other trash receptacles.

Dumpsters and other trash and recycling receptacles may not block or obstruct in any way roads, hangars or taxiways.

**13. OPERATIONS**

All operations shall be subject to approval by Permittor. Permittee shall not block or obstruct taxiways, roads or access routes at any time and shall take all reasonable steps to ensure that its operations and activities create minimal impact and inconvenience to the airport, airport users and the surrounding community. At County's sole discretion, Permittee may be required to implement measures such as limiting the hours of operation, reducing excessive noise, implementation of a dust control program, etc., as necessary.

Permittee shall limit lighting on the Premises to lighting that illuminates only the Premises and does not interfere with aircraft, vehicles on adjacent roadways, etc.

Permittee shall operate in such a manner so as to the greatest extent possible; minimize dust particles generated on the Premises by the Permittee's operations.

Permittee shall provide sufficient toilet and sanitary facilities for its agents and customers on the Premises.

Initials \_\_\_\_\_