

Attachment A

AGREEMENT TO SUPPLY RECYCLED WATER

THIS AGREEMENT, made and entered into this _____ day of _____, 2016,

By and between

LAGUNA COUNTY SANITATION DISTRICT,
a county sanitation district,
hereinafter referred to as "DISTRICT"

and

COUNTY OF SANTA BARBARA,
a body politic of the state of California,
hereinafter referred to as "USER"

RECITALS:

- A. *WHEREAS*, the DISTRICT is required to secure long term effluent discharge alternatives;
- B. *WHEREAS*, water reclamation (recycling) is the beneficial use of treated wastewater for planned uses such as irrigation, industrial cooling, recreation, groundwater recharge, environmental enhancement, and other uses permitted under California law;
- C. *WHEREAS*, the California Legislature finds that use of potable water for nonpotable uses is a waste and shall not be used if Recycled Water is available meeting the requirements for the beneficial use;
- D. *WHEREAS*, DISTRICT owns and operates a wastewater reclamation plant that produces Recycled Water;
- E. *WHEREAS*, USER owns certain real property in the County of Santa Barbara, known as Assessor's Parcel No. 113-210-022, as shown in Exhibit A;
- F. *WHEREAS*, USER desires to utilize Recycled Water in its Northern Branch Jail Project;

NOW, THEREFORE, DISTRICT and USER agree as follows:

1. **TERM**

- A. This Agreement commences on the date first written above and terminates on December 31, 2050, unless terminated earlier pursuant to Section 18 of this Agreement.

2. DEFINITIONS

- A. "Facility" means any type of building or structure, or a defined area of specific use that receives water for domestic use from a public water system as defined in Section 116275 of the Health and Safety Code.
- B. "Recycled Water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource.
- C. "Recycled Water Supervisor" refers to the individual who shall serve as USER's point of contact for this Agreement, ensure the proper and lawful operation of USER's Recycled Water System and use of Recycled Water, train at least annually USER's employees and contractors in handling Recycled Water, contact DISTRICT in the event of a fire at the Facility, implement the requirements of this Agreement, and coordinate with DISTRICT and the Regulatory Agencies.
- D. "Recycled Water System" refers to the pipes, connections, fittings, appurtenances, irrigation systems, storage facilities, or physical improvements of any kind required by local, state, or federal laws or regulations and/or necessary to receive from DISTRICT and use Recycled Water.
- E. "Regulatory Agencies" refers to the local, state, and federal agencies which may have jurisdiction over this Agreement, Recycled Water, or the District including, but not limited to the California Water Resources Control Board Division of Drinking Water, the Regional Water Quality Control Board, and the Santa Barbara County Department of Public Health Environmental Health Services office or their successors.
- F. "Use Area" means an area of Recycled Water use with defined boundaries. A Use Area may contain one or more Facilities.

3. SCOPE OF AGREEMENT

- A. Pursuant to this Agreement, DISTRICT shall supply USER with Recycled Water for the Use Area depicted in Exhibit A and the Facility described in Exhibit B, the Northern Branch Jail.

4. QUALITY OF RECYCLED WATER

- A. DISTRICT shall deliver to USER Recycled Water of at least the quality required to be classified as disinfected tertiary Recycled Water as defined by 22 CCR § 60301.230 or an applicable successor regulation.
- B. The quality of the Recycled Water supplied by DISTRICT shall be sufficient for USER's uses, including, but not limited to, those contemplated in Section 5 of this Agreement.

5. USE OF RECYCLED WATER

- A. USER shall use Recycled Water only for those purposes permitted by applicable local, state, or federal laws or regulations, including, but not limited to, those promulgated by the Regulatory Agencies.
- B. USER's anticipated uses for Recycled Water include laundry, storage for firefighting purposes, landscape irrigation, and impoundment.
- C. USER's estimated annual Recycled Water demand is 4,000,000 gallons (12.1 acre-feet) not including Recycled Water stored for firefighting purposes.
- D. USER estimated annual Recycled Water demand for Recycled Water to be stored for firefighting purposes is 250,000 gallons (0.7672 acre-feet).

6. DELIVERY OF RECYCLED WATER

- A. Upon approval and verification by the Regulatory Agency(ies) that the appropriate backflow prevention has been installed and tested as required by Title 17 of the California Code of Regulations, DISTRICT may commence delivery of Recycled Water to USER.
- B. Annually, USER shall complete any backflow testing required by DISTRICT or the Regulatory Agencies.
- C. USER agrees that prior to DISTRICT's initial delivery of Recycled Water to USER or DISTRICT's initial delivery of Recycled Water to USER following any substantial modifications to USER's Recycled Water System, DISTRICT shall be permitted to test USER's Recycled Water System for leaks. USER shall repair any and all such leaks within 30 days of notification by DISTRICT and prior to DISTRICT initiating delivery of Recycled Water.
- D. DISTRICT's delivery of Recycled Water to USER shall not exceed USER's needs.

7. LIMITATIONS ON DELIVERY OF RECYCLED WATER

- A. Notwithstanding the delivery of Recycled Water as stated in Section 6 of this Agreement, both parties recognize and agree that such delivery of Recycled Water to USER may at times be interrupted for reasons beyond the control of the DISTRICT. In this respect, DISTRICT shall deliver Recycled Water to USER as stated in Section 6 of this Agreement unless said delivery is prevented by causes outside the control of DISTRICT including, but not limited to, natural disasters, malfunctions of DISTRICT's treatment or distribution systems, or acts of a third party.

- B. Whenever DISTRICT's delivery of Recycled Water to USER is interrupted for reasons outside the control of the DISTRICT, DISTRICT shall make its best effort to correct the cause of interruption and restore delivery of Recycled Water to USER as soon as possible.
- C. DISTRICT shall suspend delivery of Recycled Water to USER if ordered to do so by a Regulatory Agency. In such case, DISTRICT may resume delivery of Recycled Water to USER only after receiving authorization to do so from a Regulatory Agency.
- D. Whenever DISTRICT's delivery of Recycled Water to USER is interrupted for reasons outside the control of the DISTRICT or suspended pursuant to an order from a Regulatory Agency, DISTRICT shall communicate to USER that delivery of Recycled Water has been suspended and, if known, the expected duration of the suspension, and that USER may use other water sources at USER's expense until DISTRICT can restore delivery of Recycled Water.
- E. If DISTRICT knows in advance that DISTRICT's delivery of Recycled Water to USER will be interrupted or suspended for any reason, then prior to such interruption or suspension, DISTRICT shall provide USER with advance notice of the interruption or suspension and of the anticipated date on which delivery of Recycled Water will resume.

8. LIMITATIONS ON RECEIPT OF RECYCLED WATER

- A. Notwithstanding the use of Recycled Water by USER as stated in Section 5 of the Agreement, both parties recognize and agree that such receipt of Recycled Water may at times be precluded for reasons beyond the control of USER. In this respect, USER shall be required to use Recycled Water as stated in Section 5 of this Agreement unless said use is prevented by causes outside the control of USER including, but not limited to, natural disasters, malfunctions of USER's irrigation systems, or acts of a third party.
- B. Whenever the receipt of Recycled Water is interrupted, USER shall make its best effort to correct the cause of interruption and restore the ability to receive Recycled Water from DISTRICT in a reasonable amount of time.

9. WATER FOR FIREFIGHTING PURPOSES

- A. Upon notice from USER of a fire at the Facility, DISTRICT may, to the fullest extent that it is able, divert all available Recycled Water to USER.
- B. Pursuant to Section 5 D, USER intends to store Recycled Water to use for firefighting purposes. USER acknowledges that DISTRICT will not supply Recycled Water for immediate use for firefighting purposes, including, but not

limited to, supplying Recycled Water directly to a fire suppression system, unless, subject to the immunities in Section 17 C, DISTRICT can supply Recycled Water at rate and quantity sufficient for those purposes.

10. RECYCLED WATER SUPERVISOR

- A. USER shall designate and maintain an individual as USER's Recycled Water Supervisor. USER shall inform DISTRICT of the name, position, and telephone number of USER's Recycled Water Supervisor prior to startup of USER's Recycled Water System and shall promptly inform DISTRICT of any change of designated Recycled Water Supervisor or telephone number or other contact information during the term of this Agreement.
- B. DISTRICT shall assist in providing adequate training of USER's Recycled Water Supervisor and provide USER with a reasonable number of operating manuals, guidelines, checklists and instructions to assist USER's Recycled Water Supervisor in training USER's employees and contractors handling Recycled Water.

11. USER'S RECYCLED WATER SYSTEM

- A. At USER's sole expense, USER shall construct its Recycled Water System, including any signage or markings required by applicable law or regulations to identify USER's Recycled Water System or the presence of Recycled Water.
- B. DISTRICT shall provide USER with a meter for USER's Recycled Water System. Upon acceptance of facilities, DISTRICT shall own and operate all facilities up to and including the water meter.
- C. At USER's sole expense, USER shall operate, maintain, and upgrade its Recycled Water System as required to comply with local, state, and federal laws or regulations and/or permit use of Recycled Water. DISTRICT shall assist USER in identifying the modifications, upgrades, and/or design features required in USER's Facility.

12. DRAWINGS

- A. Prior to constructing any Facilities on the Use Area, USER shall provide DISTRICT with drawings showing the layout of its proposed onsite Recycled Water System. The drawings must show any other onsite water systems that may be physically affected by the use of Recycled Water from the DISTRICT. The drawings shall be accurate to the best knowledge of USER, and shall show the locations of all pipelines, controller, valves, fountains, buildings, structures, property, boundaries, and any other features known or considered to be important to the onsite use of Recycled Water.

- B. Prior to modifying USER's proposed or constructed Recycled Water System, USER shall provide DISTRICT with drawings showing the layout of any proposed modifications to USER's Recycled Water System.
- C. USER, at its sole cost, shall secure the approval of any applicable Regulatory Agency(ies) for any drawings depicting the layout of its proposed Recycled Water System, any modifications to its proposed Recycled Water System, and/or any modifications to its constructed Recycled Water System.
- D. USER shall be solely responsible both for ensuring that the design for its proposed Recycled Water System, any modifications to its proposed Recycled Water System, and/or any modifications to its constructed Recycled Water System permits USER to receive Recycled Water deliveries from DISTRICT and for any costs related to this responsibility.
- E. DISTRICT may provide USER with feedback on any drawings USER submits to DISTRICT which depict USER's proposed Recycled Water System or any modifications thereto.
- F. Within twenty (20) working days of completing construction of or modifications to USER's Recycled Water System, USER shall provide DISTRICT with accurate drawings reflecting the as-built Recycled Water System.

13. PRICE OF RECYCLED WATER

- A. USER shall pay DISTRICT for Recycled Water at a rate of \$3,751.42 per million gallons (which equates to \$1,222.32 per acre-foot). DISTRICT may increase its Recycled Water rates annually each March and in accordance with applicable local, state, or federal laws or regulations.
- B. DISTRICT shall read the Recycled Water meter(s) approximately monthly consistent with DISTRICT's normal meter reading schedule for billing purposes and shall bill USER for the total quantity delivered during the billing period in accordance with DISTRICT's standard billing practices. USER may periodically review DISTRICT's meter readings if desired. USER shall pay DISTRICT within 20 days of receipt of DISTRICT's bill.

14. PERMISSION TO ENTER

- A. USER agrees to allow DISTRICT and the Regulatory Agencies, acting through their duly authorized employees, agents, representatives, or contractors, reasonable access at reasonable times to the Use Area and/or Facility, after DISTRICT's advance written notice and compliance with USER's security requirements, for the purposes of (i) observing construction or modification of USER's Recycled Water System, (ii) reading Recycled Water meters and other testing or sampling, (iii) observing and verifying that USER's Recycled Water

System, operation of its Recycled Water System, and/or use of Recycled Water complies with this Agreement and any applicable local, state, or federal laws or regulations, and (iv) reviewing modifications to USER's Recycled Water System.

- B. While present at the Use Area or Facility, DISTRICT or the Regulatory Agencies shall minimize interference with USER's operation of the Use Area and Facility.

15. ENTIRE AGREEMENT AND MODIFICATION

- A. This Agreement contains all agreements of the parties with regard to the subject of this Agreement and cannot be enlarged, modified, or changed in any respect except by written agreement between the parties.
- B. The Use Area may be reduced, extended, or enlarged by mutual, written agreement of USER and DISTRICT, subject to approval by the applicable Regulatory Agency(ies).
- C. To provide additional Facilities, including those within the Use Area, with Recycled Water, USER and DISTRICT agree to execute a separate agreement.

16. GENERAL CONDITIONS

- A. This Agreement shall be construed and interpreted in accordance with the laws of the State of California and venue shall be in the state courts in the County of Santa Barbara.
- B. USER agrees that this Agreement, USER's Recycled Water System, and USER's use of Recycled Water are all subject to oversight and/or regulation by the Regulatory Agencies.
- C. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal. The remaining provisions of this agreement shall be interpreted, enforced and applied so as to give reasonable effect to the material purposes for the agreement.
- D. The captions, titles, and headings in this Agreement shall have no effect on the interpretation of this Agreement of any part thereof.
- E. This Agreement shall be for the benefit of the real property affected and shall be binding on the heirs, successors, lessees, sublessees, assigns, and transferees of the parties.

17. INDEMNIFICATION

- A. The DISTRICT shall defend, indemnify, and hold USER, its officers, employees, and agents harmless from and against any and all liability, loss, expense

(including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligence, recklessness, or willful misconduct on the part of the DISTRICT, its officers, employees or agents.

- B. USER shall defend, indemnify, and hold DISTRICT, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligence, recklessness, or willful misconduct on the part of the USER, its officers, employees or agents.
- C. To the fullest extent permitted by the law, DISTRICT shall not be liable for:
 - 1. Ensuring, verifying, or evaluating whether USER's uses of Recycled Water, USER's Recycled Water System, and/or USER's operation of its Recycled Water System complies with local, state, or federal laws or regulations;
 - 2. Any services provided pursuant to this Agreement, including, but not limited to, those for training, inspection, or document review; or
 - 3. Any losses arising from DISTRICT providing USER with Recycled Water to store for firefighting purposes. DISTRICT specifically disclaims any liability implied by *Niehaus Bros. Co. v. Contra Costa Etc. Co.* (1911) 159 Cal. 305 and claims any immunities applicable to the provision of water for firefighting purposes, including, but not limited to, Public Utilities Code § 774, Government Code §§ 850-850.8, or their successors.

18. TERMINATION

- A. For Breach of Agreement. Should one party breach any of the terms and conditions in this Agreement, written notice of such breach shall be given to the breaching party by the other party. If reasonable steps towards correcting the breaching conditions are not taken within thirty (30) days from such notice, the other party may, in addition to any remedies provided in this Agreement and by law, terminate this Agreement on sixty (60) days written notice to the breaching party.
- B. By DISTRICT. DISTRICT may terminate this Agreement upon two (2) hours written notice to USER if:
 - 1. DISTRICT, at its sole determination, is, or will be, unable to deliver sufficiently treated Recycled Water to USER for any reason whatsoever

for a period greater than ten days, provided the reason for non-delivery is outside the reasonable control of DISTRICT.

2. A Regulatory Agency changes DISTRICT's discharge requirements for Recycled Water to a more stringent level which DISTRICT cannot reasonably meet.
3. DISTRICT is ordered to cease delivery of Recycled Water to USER by a Regulatory Agency.
4. This Agreement is not approved by the applicable Regulatory Agency(ies).
5. DISTRICT determines that DISTRICT cannot supply USER with a quantity of Recycled Water sufficient to meet USER's needs.

C. By USER. USER may terminate this Agreement upon written notice to DISTRICT if:

1. A Regulatory Agency disallows USER to use Recycled Water for the purposes contemplated by this Agreement.
2. USER determines that the DISTRICT's Recycled Water is causing significant damage to its land in the Use Area.

D. Responsibilities Following Termination.

1. DISTRICT shall be responsible for disconnection and removal of DISTRICT facilities at no cost to USER if either (i) DISTRICT terminates this Agreement pursuant to Section 18B, or (ii) USER terminates the Agreement due to a breach by DISTRICT, provided USER has complied with Section 18A.
2. USER shall be responsible for disconnection and removal of DISTRICT facilities at no cost to DISTRICT if DISTRICT terminates the Agreement due to a breach by USER, provided DISTRICT has complied with Section 18A.

19. NOTICES

- A. Any notices given by either party to the other party relative to this Agreement shall be in writing. Both parties agree that any such notice shall be effective if signed by the public works director of the County of Santa Barbara, or the designee of said director, and/or USER's Recycled Water Supervisor and deposited, postage paid, for physical delivery to one of the following addresses:

DISTRICT:
Laguna County Sanitation District
620 West Foster Road
Santa Maria, California 93455

USER:
County of Santa Barbara
General Services Dept.
105 East Anapamu Street, Room 108
Santa Barbara, California 93101

20. BINDING ON SUCCESSORS

- A. This Agreement is an instrument affecting the title and possession of real property. All the terms, covenants, conditions and restrictions herein imposed shall be binding upon and inure to the benefit of the successors in interest of USER and shall run with the real property and each part thereof. Upon any sale or division of the real property, the terms of this Agreement shall apply separately to each parcel and the owner of each parcel shall succeed to and be bound by the obligations imposed on USER by this agreement.

21. FUTURE USE OF ALTERNATIVE WATER SUPPLIES

- A. It is the parties' intent that USER's agreement to use Recycled Water for the Use Area shall not adversely affect USER's ability to change the use of the property upon termination of this Agreement.

IN WITNESS WHEREOF, DISTRICT and USER have executed this Agreement as of the date and year first written above.

DISTRICT:
LAGUNA COUNTY SANITATION DISTRICT

USER:
COUNTY OF SANTA BARBARA

By: _____
Ex-Officio Chair, Board of Directors

By: _____
Chair, Board of Supervisors

Date: _____

Date: _____

ATTEST:
MONA MIYASATO
EXECUTIVE OFFICER
EX-OFFICIO CLERK OF THE BOARD

ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy

By: _____
Deputy

APPROVED AS TO FORM
MICHAEL C. GHIZZONI
DISTRICT COUNSEL

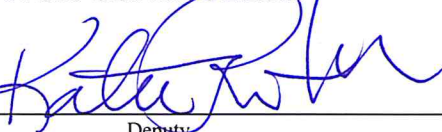
APPROVED AS TO FORM
MICHAEL C. GHIZZONI
COUNTY COUNSEL

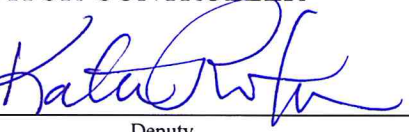
By:  _____
Deputy District Counsel

By:  _____
Deputy County Counsel

APPROVED AS TO FORM
THEODORE A. FALLATI, CPA
AUDITOR-CONTROLLER

APPROVED AS TO FORM
THEODORE A. FALLATI, CPA
AUDITOR-CONTROLLER

By:  _____
Deputy

By:  _____
Deputy

APPROVED AS TO FORM
RAY AROMATORIO
RISK PROGRAM ADMINISTRATOR

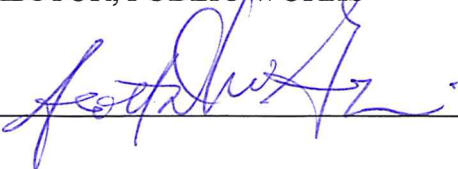
APPROVED AS TO FORM
RAY AROMATORIO
RISK PROGRAM ADMINISTRATOR

By:  _____
Risk Manager

By:  _____
Risk Manager

RECOMMENDED FOR APPROVAL
SCOTT MCGOLPIN, P.E.
DIRECTOR, PUBLIC WORKS

RECOMMENDED FOR APPROVAL
MATTHEW PONTES
DIRECTOR, GENERAL SERVICES

By:  _____

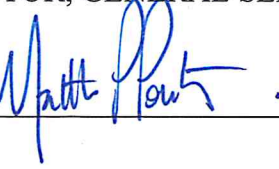
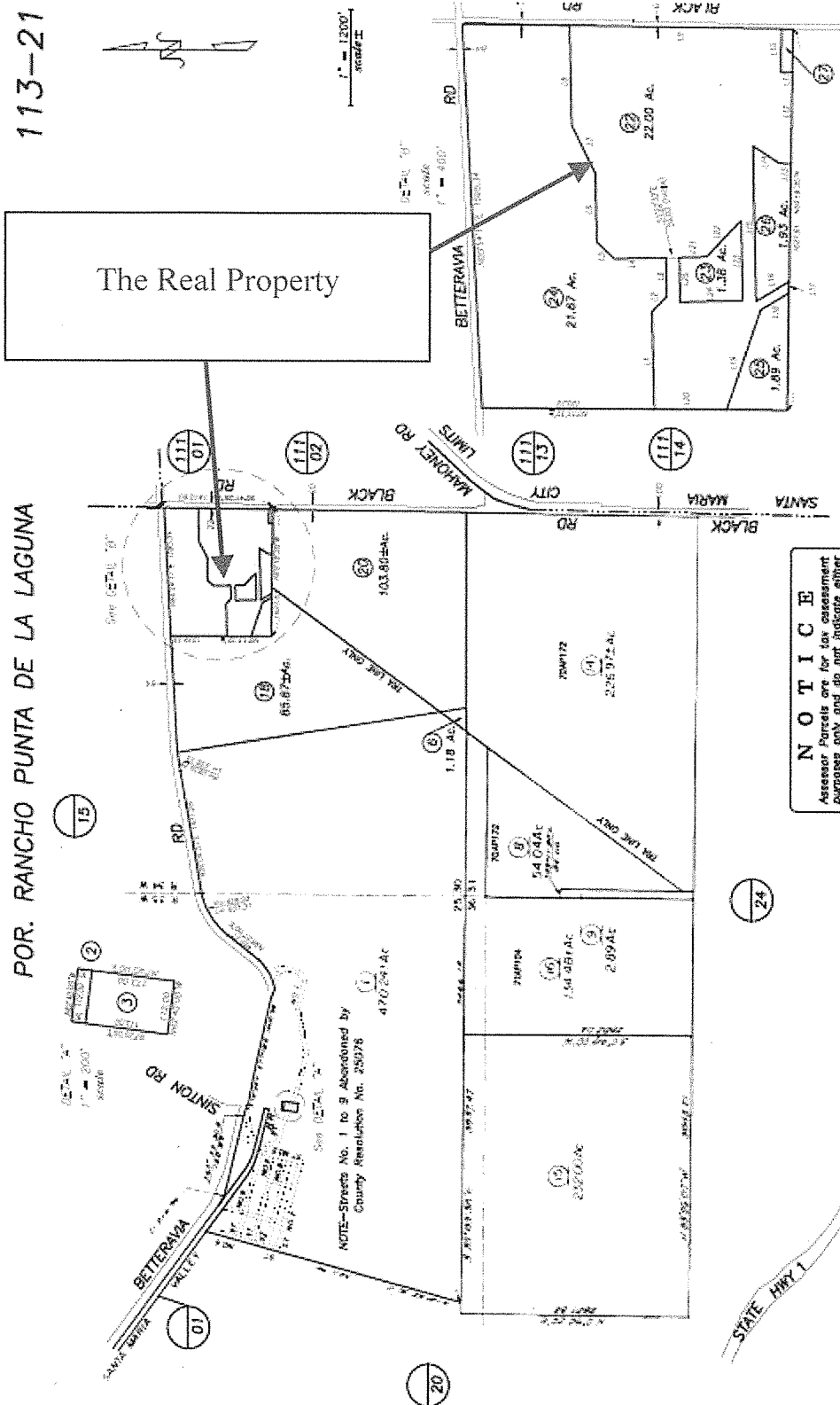
By:  _____

EXHIBIT A

113-21



Assessor's Map Bk, 113-Pg, 21
County of Santa Barbara, Calif.

10/18 21 Nov 20-27

EXHIBIT B

PROJECT USE LOCATION

USER's Project Use as described in RECITAL E, is estimated to be as follows:

Location	Address	Approximate Use Area
APN 113-210-022	North County Jail Site 2301 Black Road Santa Maria, California 93455	22 of 50 acres

