

COPY

LICENSE AGREEMENT--

SANTA MARIA LEVEE BIKEWAY

THIS AGREEMENT is made and entered into on the date last written below, by and between the SANTA BARBARA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a political subdivision of the State of California, hereinafter called "Licensor," and the CITY OF SANTA MARIA, hereinafter called "Licensee."

WITNESSETH:

THAT Licensor, for a good and valuable consideration and in further consideration of the faithful performance and observance by Licensee of all of the terms and conditions herein contained, does hereby grant to Licensee a license for the construction, reconstruction, maintenance, removal, and use of a path for the passage of pedestrians and bicycles only, together with the necessary appurtenances thereto, hereinafter referred to as "the Trail."

THE LICENSE above mentioned is granted by Licensor and accepted by Licensee upon the following terms and conditions and Licensee does hereby agree with Licensor as follows:

1. Definitions

As used in this License, "the Property" shall refer to that portion of the Santa Maria Levee as shown on the map attached hereto as Exhibit "A" and incorporated herein by this reference.

As used in this License, the Trail shall refer to a 14-foot-wide corridor located on the Property, described in Exhibit "A" attached, which may include, subject to Licensor's approval and inspection as provided in Section 10, a permeable-surface trail, signs, drainage facilities, barrier fencing or walls, and landscaping.

2. Title of Licensor

Licensee hereby acknowledges the title of Licensor in and to the Property and agrees never to assail or to resist said title. Licensee agrees that it has not acquired nor will it hereafter acquire any rights or interest in the Property, nor

does Licensee have nor will it obtain any right or claim to the use of the Property beyond those explicitly granted in this License.

**3. Term**

This License to construct, operate and maintain a Trail to be used by the general public shall continue for an indefinite term, to terminate sixty days after written notice of termination is given to either party by the other.

**4. Primary Use of Property**

The Property consists of a levee that is used for flood control purposes. Use of the Property is subject to any limitations which may be imposed by the United States Army Corps of Engineers ("USACE"), which has an interest in the Property. Underground utility facilities may already be in place and it is anticipated that in the future, additional utility facilities may be constructed or installed on the Property. Any and all rights granted or implied by this License shall be subordinate to the uses just mentioned, as well as to all other uses of the Property by, or permitted by, Licensor.

Licensee acknowledges that the use just described constitutes the primary use of the Property and that Licensee's use of the Trail pursuant to this license is secondary and subordinate to said primary uses. Licensee shall not use or permit the public to use the Trail in any manner that will materially interfere with or impair said primary use of the Property. All rights granted to hereunder are subject to all existing and future rights, rights of way, reservations, franchises, and licenses in the Property, regardless of who holds it including Licensor's right to use the Trail for emergency or maintenance access or any other purpose.

---

Licensee further acknowledges and agrees that this license is subject to and authorized by Resolution Number 98-266 of the Santa Barbara County Flood Control and Water Conservation District, a copy of which is attached hereto as Exhibit "B" and which is hereby incorporated by this reference as though fully set forth.

**5. Suspension or Limitation of Use**

Licensor shall have the right to temporarily close or to limit the Trail by Licensee and the general public for a period of time for protection of public safety or for the construction, installation, operation, maintenance or repair of other facilities on the Property. Should such suspension or limitation be necessary, Licensor shall provide Licensee fifteen (15) days prior notice in writing, except in cases of

emergency maintenance, repairs, or other unforeseen emergency conditions which require immediate closure of the Trail.

During periods of suspension or as provided herein, and also as necessary for the protection of the public, Licensee shall be responsible for excluding or removing persons from the trail area.

Licensor shall not be held responsible or liable for damage or removal of any fences, gates, asphalt or concrete paving, landscaping, or other which may be placed, installed, repaired, or constructed as part of Trail when Licensor finds it necessary to accomplish work for the maintenance, repair, reconstruction or alteration of Licensor property. However, Licensor will exercise reasonable care to minimize adverse impacts of such work on Licensee's recreational facilities.

**6. Revocation**

In the event, in the sole discretion of Licensor, the primary uses of the Property by Licensor or Licensor's permittees reasonably require some permanent use of a portion or portions of the Property which, by nature thereof, precludes Licensee's use thereof, Licensor may, upon sixty days' prior notice, revoke this License to the area Licensor deems necessary for such permanent primary use. Licensor shall supply Licensee with a map or drawing identifying the area(s) as to which this License is so revoked.

**7 Maintenance and Litter**

Licensee shall maintain the Property in a clean, safe, and presentable condition free from graffiti, waste, litter and other items resulting from public access to the Property and left by parties other than Licensor and its permittees. As used in this section, the term "litter" shall include, but not be limited to, paper, garbage, refuse, building materials, trimmings, and other items that detract from the neat and tidy appearance of the Property. If Licensee fails so to keep the Property then, after thirty (30) days' prior written notice specifying the needed work, Licensor may perform or hire the necessary work at the reasonable expense of Licensee, which expense Licensee agrees to pay to Licensor upon demand.

Licensee agrees to keep the Trail free from weeds and other vegetation, and to abate weeds to local fire district standards. Licensor agrees to perform weed abatement on the remaining portion of the Property according to local fire district standards.

**8. Indemnification**

Licensee shall indemnify, save, protect, defend, and hold harmless Licensor, its Boards, officers, and employees from and against any and all loss, liability, expense, claims, costs, suits, and damages, including attorneys fees, arising out of or connected with Licensee's operations and performance, the presence of the Trail, or public use of the Trail or Property. It is the intent of this paragraph that Licensee shall so indemnify, save, protect, defend and hold harmless Licensor to the fullest extent permitted by law. Licensee shall notify Licensor immediately in the event of any claim, accident or injury arising out of or in connection with this License Agreement.

**9. Insurance Requirements**

**a. Workers' Compensation**

Licensee warrants that it has a program of self-insurance for workers' compensation coverage and agrees that its employees providing services or performing duties under this agreement will be covered by Licensee's self-insurance program for all injuries arising out of or occurring in the course and scope of their employment.

**b. General and Automobile Liability**

The Licensee shall maintain a program of self-insurance and general and automobile liability coverage for the period covered by this agreement in the amount of at least \$5,000,000 per occurrence combined single limit coverage. Such coverage shall include, but shall not be limited to, protection against claims arising from the activities contemplated under this License. The Licensor, its officers, agents, and employees shall be named as additional insured. The Licensee shall furnish the Licensor with a Certificate of Insurance and endorsements effecting coverage by the contract.

**10. Approval and Inspection of Work**

Licensee shall not perform any construction, reconstruction, remodeling, removal, or other work within the Trail without first obtaining approval in writing of said work from Licensor and USACE. In seeking these approvals, Licensee shall furnish Licensor a complete description and plans of the work proposed to be performed. In performing work approved by Licensor and USACE, Licensee shall comply with all terms, conditions, and requirements imposed by Licensor and not

deviate any material manner from the description and plans approved by Licensor without first obtaining additional approval in writing.

Licensee shall design, construct and maintain all facilities to provide continuous unobstructed vehicle access, at access points, which is sixteen (16) feet wide. Licensor has disclosed to Licensee that the primary use of the Trail area will include vehicles with weights up to and in excess of sixteen-ton axle loads. In addition, Licensor's use of tracked equipment may leave the trail surface in an uneven and rough condition. Licensee agrees to assume all responsibility for the repair and maintenance of any damage that may be caused by the use of such vehicles.

Licensee shall not be required to obtain Licensor's prior written approval for the performance of routine maintenance or emergency repairs. As used in this section, the term "routine maintenance" refers to work that does not alter the original condition of improvements previously approved in writing by Licensor which work is required to prevent deterioration of said improvements. As used in this Section, the term "emergency repairs" refers to repairs that do not alter the original condition of improvements previously approved in writing by Licensor which repairs are necessary to protect the safety of the public and others except in the case of emergency or routine maintenance. Licensee shall consult Licensor at least seven (7) days before Licensee performs any major maintenance operations. Work shall be done in such a manner that Licensor shall at all times be able to use and gain access to its facilities.

All work performed by Licensee under this section shall be subject to inspection by Licensor.

#### 11 Assignment

No rights of Licensee hereunder shall be transferred or assigned unless to successor public agency and unless the written consent of Licensor is first secured. With that exception, this License and each and all of the covenants herein contained shall inure to the benefit of and be binding upon the successor and assigns of the respective parties hereto.

#### 12. Abandonment by Licensee

If Licensee shall, for a period of at least 120 consecutive days, fail to use or maintain the Trail or any portion thereof in a manner consistent with this agreement, then all rights of Licensee in and to portions not used or maintained

may be temporarily terminated by Licensor until properly maintained per this agreement.

**13. Restricted Use**

The rights granted hereunder are for pedestrian and bicycle use and no type of motor-driven vehicle shall be permitted on the Trail, except those of Licensee, Licensor, or Licensor's permittees being used for construction maintenance, repair, patrol, or public safety purposes. Licensee shall install such barricades as are necessary to prevent unauthorized access by motor-driven vehicles and shall post signs at points of entry to the path that such vehicles are prohibited. Licensee's barricades shall accept Licensor's locks.

**14. Patrol**

Licensee shall provide such patrol service as is necessary to prevent unauthorized use of the Trail and to protect the safety of the users of the Trail. Its failure to do so shall constitute a breach of this License and may justify immediate termination of same.

Licensee agrees to devote the same standards and levels of public safety patrol to the Trail as it is able to and does devote to its other recreational facilities.

**15. Damage to Property**

It is understood and agreed by and between the parties hereto that the property is subject to sliding, erosion, subsidence, and flooding, and that Licensor is under no obligation to maintain the Property or repair any damage resulting from slide erosion, subsidence, or flooding unless in the sole discretion of Licensor such damage affects the integrity of the flood control facilities. It is also agreed and understood that the Licensee is responsible for maintaining the surface of the Trail at all times including after maintenance or other activities by Licensor which may make the surface of the Trail hazardous or undesirable for use by the public. In the event of any lesser damage, Licensee shall perform such maintenance or repair as Licensee may deem necessary for proper and safe operation of the Trail.

**16. Pollution**

Licensee, at its sole expense, shall comply with all applicable laws, regulations, rules and others with respect to the use of the Property, regardless of when they

become or became effective, including, without limitation, those relating to health safety, noise, environmental protection, waste disposal, and water and air quality and furnish satisfactory evidence of such compliance upon request of Licensor.

No hazardous materials shall be handled by Licensee at any time upon the Property. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or, from the Property caused by Licensee's employee contractors and agents, Licensee, at its expense, shall be obligated to clean all the property affected thereby, whether owned or controlled by Licensor or any third person, to the satisfaction of Licensor (insofar as the property owned or controlled by Licensor is concerned) and any governmental body having jurisdiction therefor.

To the extent permitted by law, Licensee shall indemnify, hold harmless, and defend Licensor and such holders of user rights against all liability, cost, and expense (including, without limitation, any fines, penalties, judgments, litigation costs, and attorneys' fees) incurred by Licensor and such other users as a result of Licensee's breach of this section or as a result of any such discharge, leakage spillage, emission or pollution.

**17. Signs**

Licensee shall maintain existing signs and install appropriate informational and warning signs. Licensee shall also install signs designating permitted Trail by the general public regulations governing such uses, and specifically prohibit operation of unauthorized motor vehicles. Licensee shall also post any other signs required by law, recognizing that Licensor utilizes pesticides, herbicides and other dangerous chemicals for the purpose of maintaining the Levee as a flood control improvement.

**18. Trail Improvement Maintenance or Modification:**

Licensee shall maintain at its expense all Trail improvements, including, without limitation, surfacing, culverts, gates, signs, fences, bollards, and landscaping. It is acknowledged that all impacts of the construction and operation of the Trail cannot be foreseen at the present time. Licensor may require changes to the Trail improvements or changes to operation of the Trail, and Licensee agrees to make such changes to the Trail improvements or operations to Licensor's satisfaction.

**Drainage**

Licensors agree to maintain, at its expense, all longitudinal drainage and culverts not part of the Trail. Licensee agrees to maintain, at its expense, drainage facilities necessary for Trail's operation.

**Fencing**

Licensee agrees to maintain, at its expense, all fencing and barricades or Property installed by Licensor or Licensee. Licensee shall not be responsible for the maintenance of residential fencing installed by parties other than Licensee.

**21. Vandalism**

Licensee shall, at its own expense, promptly repair all damage to Trail improvements and to the Property.

**22. Graffiti**

Licensee shall, at its own expense, promptly clean, repaint, or remove any graffiti placed by users of the Trail on Trail improvements, the Property, existing future utilities and fences, walls and bridges adjoining the Property.

**23 Encroachment Permits**

Licensors shall have the sole right to grant encroachment permits or rights of entry within the Property. Notification of encroachment permits granted and approved by Licensor will be forwarded to Licensee. Licensor shall consult Licensee on safety requirements for future utilities and if Licensee has not responded within 15 working days, then it is presumed Licensee is in concurrence. Licensee shall obtain permits from all other agencies as required for construction of the Trail improvements, including but not limited to USACE .

**24. Modification**

This License shall be subject to modification or amendment, including expansion of the Trail to additional areas, only by the written, mutual consent of both parties.



**25 Entire Agreement**

It is understood that this document contains the entire agreement between parties hereto and all prior understandings or agreements, oral or written, of whatsoever nature regarding the rights hereby granted are superseded by this License and are hereby abrogated and nullified.

**Construction**

The parties have negotiated the terms of this Agreement. They have consulted their respective attorneys as needed. The terms of this license reflect this negotiation and the intentions of both parties. These terms shall be interpreted with regard to each party equally.

**Severability**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this license shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

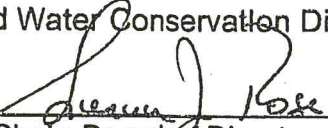
**28 Dispute Resolution**

Any dispute, disagreement, or termination of this License shall first be addressed and resolved at the lowest possible staff level between the appropriate representatives of the Licensor and Licensee. If it cannot be resolved at this level it is to be elevated to the County Administrator and the City Manager. If it cannot be resolved at this level it may be appealed by the Licensee to Santa Barbara Flood Control and Water Conservation District Board.

IN WITNESS WHEREOF, the parties hereto have executed this License, in duplicate, the day and year last written below.

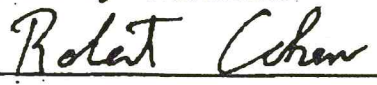
Santa Maria Levee Bikeway License Agreement  
Page 10 of 10

Santa Barbara Flood Control  
and Water Conservation District


By   
Chair, Board of Directors

Dated: 5/3/00


ATTEST:  
Clerk of the Board of Supervisors  
and County Administrator

By 

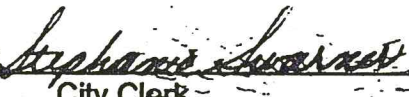
APPROVED AS TO FORM:  
STEPHEN SHANE STARK  
County Counsel


By   
Deputy

City of Santa Maria

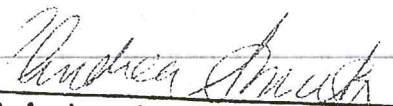
By   
Mayor

Dated: 4-20-00

By   
City Clerk

By   
City Attorney

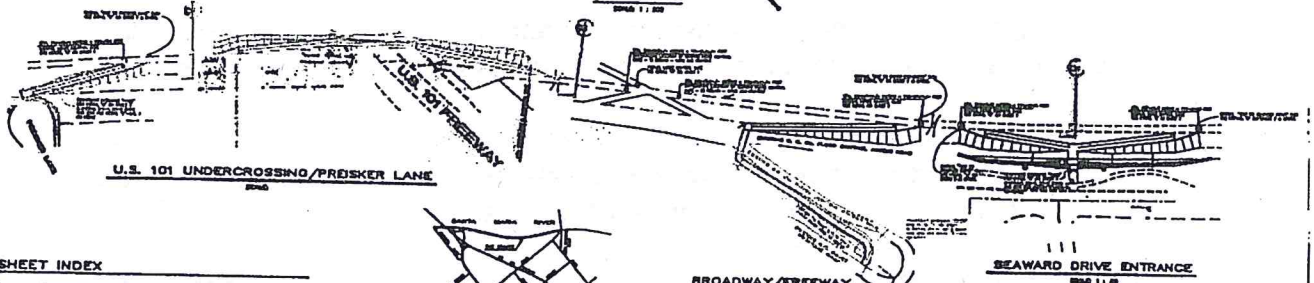
APPROVED AS TO FORM:  
P. ANDREA SMUTZ  
Risk Management Department

By:   
P. Andrea Smutz, Risk Manager

# CITY OF SANTA MARIA SANTA MARIA/GUADALUPE DUNES BIKEWAY PHASE I BID 97/04



AREA MAP  
SHEET 11.02



U.S. 101 UNDERCROSSING/PREISKER LANE  
SHEET 11.03

BROADWAY/FREEWAY  
ON RAMP ENTRANCE  
SHEET 11.04

SEAWARD DRIVE ENTRANCE  
SHEET 11.05

**SHEET INDEX**

1. SHEET INDEX
2. SUEY CROSSING ROAD ENTRANCE
3. SEAWARD DRIVE ENTRANCE
4. BROADWAY/FREEWAY ON RAMP ENTRANCE
5. U.S. 101 UNDERCROSSING
6. PREISKER LANE ENTRANCE
7. DETAILS



VICINITY MAP  
SHEET 11.06

**GENERAL NOTES:**

- 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE SPECIFICATIONS FOR STANDARD SPECIFICATIONS FOR PUBLIC WORKS, EDITION 2003, AS AMENDED.
- 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SANTA MARIA AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND PUBLIC SAFETY.
- 3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND TRAFFIC AT ALL TIMES.
- 4. ALL UTILITIES SHALL BE PROTECTED AND DEEPENED AS NECESSARY TO ACCOMMODATE THE BIKEWAY.
- 5. THE CONTRACTOR SHALL MAINTAIN ADEQUATE CONSTRUCTION ACCESS TO ALL ADJACENT PROPERTIES AND TRAFFIC AT ALL TIMES.
- 6. THE CONTRACTOR SHALL MAINTAIN ADEQUATE CONSTRUCTION ACCESS TO ALL ADJACENT PROPERTIES AND TRAFFIC AT ALL TIMES.
- 7. THE CONTRACTOR SHALL MAINTAIN ADEQUATE CONSTRUCTION ACCESS TO ALL ADJACENT PROPERTIES AND TRAFFIC AT ALL TIMES.
- 8. THE CONTRACTOR SHALL MAINTAIN ADEQUATE CONSTRUCTION ACCESS TO ALL ADJACENT PROPERTIES AND TRAFFIC AT ALL TIMES.
- 9. THE CONTRACTOR SHALL MAINTAIN ADEQUATE CONSTRUCTION ACCESS TO ALL ADJACENT PROPERTIES AND TRAFFIC AT ALL TIMES.
- 10. THE CONTRACTOR SHALL MAINTAIN ADEQUATE CONSTRUCTION ACCESS TO ALL ADJACENT PROPERTIES AND TRAFFIC AT ALL TIMES.



**CONVERSION TABLE**

1" = 100'	1" = 30.48m
1/4" = 30'	1/4" = 9.14m
1/8" = 15'	1/8" = 4.57m
1/16" = 7.5'	1/16" = 2.29m
1/32" = 3.75'	1/32" = 1.14m
1/64" = 1.875'	1/64" = 0.57m
1/128" = 0.9375'	1/128" = 0.28m

**SKYWAY ENGINEERING, INC.**  
2130 SEVENTH STREET, SUITE 200  
SANTA MARIA, CALIFORNIA 93450-1221  
TEL: 805.922.1111  
FAX: 805.922.1112  
WWW.SKYWAY-ENG.COM

CITY OF SANTA MARIA DEPARTMENT OF PUBLIC WORKS	
SANTA MARIA/GUADALUPE DUNES BIKEWAY - PHASE I TITLE SHEET	
DATE: 11-14-04	SCALE: AS SHOWN
PROJECT NO: 11-1484.01	BY: [Signature]

EVIDIT