

RECORDING REQUESTED BY:

San Bernardino County
Real Estate Services Department
385 N. Arrowhead Avenue, 3rd Floor
San Bernardino, CA 92415-0180

WHEN RECORDED MAIL TO:

Same as above

RECORDER:

Record without fee subject to Govt. Code
Sections 6103 and 27383
Recordation required to complete chain of title

CITY OF CHINO
A.P.N. 1056-371-08 (ptn)

**TEMPORARY
CONSTRUCTION EASEMENT**

DOCUMENT TRANSFER TAX \$ 0.00

Dept. Code : 11000 (Airports)

This TEMPORARY CONSTRUCTION EASEMENT (“**TCE**”) is made and entered into by and between Chino Center, Inc., a Delaware corporation (“**Grantor**”) and San Bernardino County, a body corporate and politic (“**Grantee**”).

RECITALS

WHEREAS, Grantor is the fee owner of certain real property, consisting of approximately 31.46 acres of improved land (“**Grantor Property**”) with an address of 16388 Fern Avenue, Chino, CA 91710 and commonly identified as APN 1056-371-08, as the Grantor Property is more particularly described in **Exhibit “A”** attached hereto and incorporated herein by reference; and

WHEREAS, Grantee is subject to Cleanup and Abatement Order No. R8-2017-0011 dated January 11, 2017, as may be amended from time to time (“**Order**”) issued by the California Regional Water Quality Control Board, Santa Ana Region (“**Water Board**”) regarding groundwater remediation at and near the County-operated Chino Airport in Chino, California; and

WHEREAS, Grantee’s acquisition of a TCE in, on, over, under, and across certain portions of Grantor Property, as more specifically set forth in this TCE, is necessary for the public health, safety and welfare and to implement a remedial action plan pursuant to the Order and approved by the Water Board known as the Chino Airport Groundwater Remedial Project (“**Project**”).

TEMPORARY CONSTRUCTION EASEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual covenants and agreements set forth in this TCE and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, effective as of the date the last of the parties executes this TCE, Grantor and Grantee hereby agree as follows:

1. Grant of Easement. Grantor hereby grants and conveys to Grantee the following temporary construction easement for use by the Grantee and its officers, employees, contractors, consultants, and agents (collectively, “**Grantee Agents**”):
 - a. Temporary Construction Easement. A temporary construction easement (“**TCE**”) in, on, over, and across certain portions of the Grantor Property comprising one area of approximately 2,348 square feet and one area of approximately 3,648 square feet for a total of approximately 5,996 square feet (“**TCE Area**”), as more particularly described in the legal description attached as Exhibit “B-1” and as depicted in the plat attached as Exhibit “B-2,” which exhibits are incorporated herein by reference, to temporarily place, stage, stockpile, and store personal property, including but not limited to trailers, well maintenance rigs and support vehicles, water storage tanks, walls, fencing, and barriers, machinery, equipment, tools, dirt, and materials during the construction and installation of a well facility for groundwater remediation on the Well Facility Easement Area (as defined in the Grant of Easement entered into by Grantor and Grantee on even date with this TCE (“**Easement**”), which is located on a separate portion of the Grantor Property.
 - b. Term of Grant. The TCE shall remain in effect for a period of three (3) years, commencing on the date the last of the parties executes this TCE, unless sooner terminated pursuant to the terms of this TCE (“**Term**”), provided that, within the Term, Grantee and Grantee Agents shall have the right to use the TCE Area for only one period not to exceed six (6) consecutive months, subject to any earlier termination pursuant to this TCE (“**Use Period**”). Grantee shall provide Grantor with not less than ten (10) business days written notice prior to the commencement date of the Use Period. On or prior to the commencement date of the Use Period, Grantor shall, at Grantor’s sole cost and expense, remove or cause the removal of any and all vehicles and other personal property located within the TCE Area to provide Grantee and Grantee Agents with exclusive use of such area for the duration of the Use Period. Grantee and Grantee Agents shall remove all of its personal property from the TCE Area at the end of the Use Period and restore the area to substantially the condition it was in prior to the Term, reasonable wear and tear excluded, and notwithstanding anything to the contrary in this Agreement, the Term shall expire at the end of the Use Period.
 - c. Other Rights. Grantor agrees that during the Term, Grantor shall not grant or convey any additional easements or other rights in and to the TCE Area to any third parties nor construct or permit to be constructed any permanent or temporary building, structure, or other obstacle on the TCE Area that would interfere with the rights granted to Grantee and Grantee Agents in this TCE.
 - d. Rights in TCE Area. Grantee and Grantee Agents shall have the right to trim, cut, and remove any trees, limbs, branches, shrubs, plants, and other landscaping located in the TCE Area that, in the reasonable opinion of Grantee or Grantee Agents, would materially and adversely interfere with the exercise of the rights herein granted to Grantee and Grantee Agents in this TCE.
2. Insurance. Prior to entering onto the TCE Area and at all times during the Use Period, Grantee shall carry (or Grantee shall cause Grantee Agents accessing the TCE Area to carry) (i) Workers' Compensation insurance as required by law, and (ii) Commercial General Liability insurance with commercially reasonable limits. Grantor shall be

included as an additional insured, covering the insured against claims of bodily injury, personal injury and property damage arising from the negligent acts or omissions of Grantee (or such Grantee Agent, as the case may be) in accessing or performing any work on the TCE Area. Prior to entering onto the TCE Area, certificates of such insurance shall be furnished to Grantor, and such insurance shall be maintained during the Use Period.

3. Indemnity. Grantee shall indemnify, defend and hold harmless Grantor and its successors and assigns from and against any and all claims, damages, awards, judgments, liabilities, obligations, costs and expenses incurred by Grantor and its successors and assigns and to the extent: (i) resulting from the acts or omissions of Grantee, and/or its and their respective officers, directors and/or Grantee Agents and (ii) arising out of or in connection with any entry on or under the TCE Area by Grantee or Grantee Agents and/or the Grantee's improvements located thereon pursuant to this TCE or the Grantee's performance of the Project. The indemnification provisions set forth in this Section 3 shall (i) survive the expiration or earlier termination of the TCE, and (ii) not be limited by the insurance requirements set forth in this TCE. Grantee hereby assumes all risk of damage to property or injury to persons in, upon or about the TCE Area from any cause relating to or arising from the TCE or any work performed by or on behalf of Grantee, and agrees that Grantor and the other indemnitees shall not be liable for, and are hereby released from any responsibility for, any damage either to person or property, which damage is sustained by Grantee or by other persons claiming through Grantee except to the extent caused by the gross negligence or willful misconduct of Grantor or any of the other indemnitees.
4. No Liens. If any lien shall at any time be filed against the Grantor Property by reason of work, labor, services or materials furnished by, for or to Grantee, or to anyone acting through or under Grantee, then if Grantee does not dispute the lien, Grantee will cause the lien to be discharged within sixty (60) days after Grantor receives notice of the lien but in any event prior to foreclosure proceedings. If Grantee disputes the lien, Grantee shall within sixty (60) days after the lien has been filed (but in any event prior to the commencement of foreclosure proceedings), bond or post adequate security reasonably satisfactory to Grantor over such lien prior to the commencement of any foreclosure proceedings. The provisions set forth in this Section 4 shall survive the expiration or earlier termination of the TCE. In the event Grantee fails to comply with the requirements of this section of this TCE and such failure continues for more than thirty (30) days after written notice from Grantor, Grantor shall have the right, but not the obligation, to satisfy such liens and Grantee shall be responsible for reimbursing Grantor for such payments that are reasonably incurred by Grantor within sixty (60) days of demand, which shall include supporting documentation for such expenses
5. Default and Remedies.
 - a. Default. Except where a different time period is specified elsewhere in this Agreement, Grantee will be in default hereunder (an "**Event of Default**") if Grantee fails to perform or comply with any other covenant, agreement or condition contained in this TCE and does not cure such failure within twenty (20) calendar days after receipt of a written notice of default from Grantor (or if such default is of a nature which cannot reasonably be cured within the different time period specified or twenty (20) calendar days, as applicable, then an Event of Default shall occur if Grantee does not cure such failure within such longer period of time as is reasonably necessary to cure such default, provided that Grantee undertakes in good faith to commence such cure within the different

time period specified or twenty (20) calendar days, as applicable, after receipt of a written notice of default and diligently prosecutes such cure to completion).

b. Termination of Easement for Default. Upon the occurrence of an Event of Default by Grantee, the TCE shall be terminable by Grantor, by written notice to Grantee, at any time following the occurrence of such Event of Default (beyond the applicable notice and cure period). If the TCE is terminated pursuant to this Section 5(a), then the following provisions shall apply, as applicable:

i. If no work has been performed, no entry onto or under the TCE Area has been made by Grantee or Grantee Agents and no materials, supplies or equipment have been moved onto the TCE Area, then the termination of the TCE shall be without any further obligation of either party hereto, other than as provided in Sections 3 and 4 above.

ii. If Grantee, or any of its Grantee Agents has entered onto or under the TCE Area, some or all of the contemplated work has been performed, and/or some or all materials, supplies, or equipment have been placed on or under the TCE Area, then Grantee shall promptly remove all such materials, supplies and equipment from the TCE Area, in a manner that is safe and compatible with the existing operations of Grantor and existing uses of the improvements on the TCE Area, and shall restore the TCE Area to a condition substantially the same as the condition that existed prior to Grantee's entry, reasonable wear and tear excepted.

iii. If Grantee commits an Event of Default hereunder beyond any applicable notice and cure periods, Grantor may exercise any right or remedy which it may have under this TCE or otherwise available at law or in equity or by statute. All rights and remedies of Grantor shall be cumulative and non-exclusive and shall survive the termination of this TCE, subject to applicable statutes of limitation, or as otherwise limited by this TCE.

6. Further Assurances. Promptly following the end of the Use Period or earlier termination of this TCE, Grantee shall execute and acknowledge any documents reasonably requested by Grantor, such as without limitation a Quitclaim Deed, as may be needed from the title company to remove the TCE of record from the Grantor Property.
7. Attorneys' Fees. In the event of any action between the parties hereto for breach of or to enforce any provision or right hereunder, each party, including the prevailing party in such action, shall pay all of its own costs and expenses expressly including, but not limited to, its own attorneys' fees incurred in connection with such action.
8. Governing Law. This TCE shall be interpreted, construed, and enforced in accordance with the laws of the State of California.
9. Notices. Any notice, demand, request, consent, approval 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, delivered by reputable overnight courier service, or sent by postage prepaid, first-class United States mail, certified or registered, return receipt requested. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other

party of the change of address. Notices shall be deemed delivered upon the earlier of: (i) actual receipt if personally delivered; or (ii) the date of delivery or refusal of the addressee to accept delivery if such notice is sent by reputable overnight courier service or by postage pre-paid, first-class United States mail, certified or registered, return receipt requested. Any notices received after 5:00 pm on a business day shall be deemed effective on the immediately following business day.

To Grantor: Chino Center, Inc., a Delaware corporation
Attn: Director of Investment Management
620 Newport Center Drive, Suite 300
Newport Beach, CA 92660

To Grantee: San Bernardino County
Attn: Director, Department of Airports
777 East Rialto Avenue
San Bernardino, CA 92415

with a copy to:

San Bernardino County
Attn: Director, Real Estate Services Department
385 North Arrowhead Avenue, Third Floor
San Bernardino, CA 92415

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Temporary Construction Easement on the day and year written below and have agreed to be bound by the terms and provisions hereof.

GRANTOR:

Chino Center, Inc.
a Delaware corporation

By: _____
Name: _____
Title: _____
Date: _____

GRANTEE:

San
Bernardino
County

By: _____
Name: Dawn Rowe
Title: Chair, Board of Supervisors
Date: _____

Exhibit A
Grantor Property – Legal Description

Real property in the City of Chino, County of San Bernardino, State of California, described as follows:

PARCEL 3 OF PARCEL MAP NO. 18625, IN THE CITY OF CHINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 241, PAGES 35 THROUGH 40, INCLUSIVE, OF PARCEL MAPS.

EXCEPTING THEREFROM 1/2 OF ALL OIL RIGHTS AND GAS RIGHTS AND OTHER HYDROCARBON SUBSTANCES LYING AND BEING WITHIN OR UNDER PROPERTY HEREIN DESCRIBED, AS RESERVED IN DEED TO HELEN MARTNER, RECORDED MARCH 3, 1936 IN BOOK 1126 PAGE 85 OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM AN UNDIVIDED 1/2 INTEREST IN AND TO ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN OR UNDER SAID LAND AS RESERVED IN DEED TO LEO DEZOETE, ET UX., RECORDED MARCH 30, 1950 IN BOOK 2553 PAGE 314 OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ALL OIL, AND MINERAL RIGHTS IN AND TO SAID LAND, RESERVED IN THE DEED FROM LEONARD H. CROFOOT, ETAL RECORDED AUGUST 14, 1951 IN BOOK 2808 PAGE 591, OFFICIAL RECORD.

ALSO EXCEPTING THEREFROM ALL MINERALS, GAS, OIL, PETROLEUM, NAPTHA AND OTHER HYDROCARBON SUBSTANCES IN, ON OR UNDER SAID LANDS, WITH RIGHT OF SURFACE INGRESS AND EGRESS AND WELL SITE LOCATIONS, AS RESERVED IN THE DEED TO VERNON O. STAHL, ET UX., RECORDED AUGUST 27, 1952 IN BOOK 3011, PAGE 238 OFFICIAL RECORDS AND IN THE DEED TO VERNON O. STAHL, ET UX., RECORDED NOVEMBER 12, 1953 IN BOOK 3275 PAGE 86 OFFICIAL RECORDS.

AND ALSO EXCEPTING THEREFROM ALL MINERALS, GAS, OIL, PETROLEUM, NAPTHA AND OTHER HYDROCARBON SUBSTANCES AS CONTAINED IN THE EXECUTOR'S DEED FILED FOR RECORDING DECEMBER 7, 1953.

APN: 1056-371-08-0-000

Exhibit B-1
TCE Area – Legal Description
CHINO AIRPORT REMEDIAL ACTION PROJECT PROPERTY ACQUISITION
EW-10

TEMPORARY CONSTRUCTION EASEMENT AREA

All the portions of real property situated in the City of Chino, County of San Bernardino, State of California, contained with in Section 31 of Township 2 South, Range 7 West, San Bernardino Meridian, being a portion of Parcel 3 of Parcel Map 18625 recorded on June 27th 2013, in Book 241, Page 35 of Parcel Maps in the County Recorder's Office of said County, more particularly described as follows:

Parcel 1

COMMENCING at the intersection of the centerlines of Pine and Fern Avenue at a "set monument well" as shown on said Parcel Map 18625.

Thence westerly along the centerline of Pine Avenue South 71°58'25" West a distance of 401.53 feet;

Thence continuing along said centerline South 71°51'36" West a distance of 190.75 feet;

Thence leaving said centerline North 18°01'35" West a distance of 76.81 feet to a point on the northerly right of way line of Pine Avenue, said point being the **TRUE POINT OF BEGINNING** of Parcel 1.

Thence leaving said right of way continuing North 18°01'35" West a distance of 65.32 feet;

Thence North 89°10'53" East a distance of 43.33 feet;

Thence South 23°09'00" East a distance of 44.01 feet to said northerly Right of Way;

Thence along said Right of Way the following three (3) courses:

- 1) South 69°31'53" West a distance of 25.00 feet;
- 2) South 20°28'07" East a distance of 6.72 feet;
- 3) South 69°31'53" West a distance of 20.65 feet to the **TRUE POINT OF BEGINNING**.

Containing 2348 square feet more or less.

Parcel 2

COMMENCING at the intersection of the centerlines of Pine and Fern Avenue at a "set monument well" as shown on said Parcel Map 18625.

Thence westerly along the centerline of Pine Avenue South 71°58'25" West a distance of 401.53 feet;

Thence continuing along said centerline South 71°51'36" West distance of 53.64 feet;

Thence leaving said centerline North 18°08'24" West a distance of 47.01 feet to a point on the northerly right of way line of Pine Avenue, said point being the **TRUE POINT OF BEGINNING** of Parcel 2.

Thence leaving said Right of way continuing North 18°08'24" West a distance of 38.38 feet;

Thence South 71°51'36" West a distance of 57.06 feet;

Thence North 23°10'26" West a distance of 32.89 feet;

Thence North 89°10'53" East a distance of 116.51 feet;

Thence South 18°01'35" East a distance of 37.88 feet to a point on the northerly right of way line of Pine Avenue, said point being a point on a curve concave southerly having a radius of 295.00 feet, through which a radial line bears South 12°31'05" East

Thence westerly along said curve a distance of 28.95 feet through a central angle of 05°37'19";

Thence continuing along said northerly right of way line and parallel with said centerline of Pine Avenue South 71°51'36" West a distance of 22.30 feet to the **TRUE POINT OF BEGINNING**.

Containing 3648 square feet more or less.



Legal Description prepared by or under the supervision of:

A handwritten signature in cursive script that reads "Daniel C. Helt".

Daniel C. Helt
P.L.S. 8925

Date 9/24/2021

Exhibit B-2 TCE Area – Plat

