THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

ORIGINAL

Contract Number

10-752 A-1

SAP Number

San Bernardino County Flood Control District

Department Contract Representative	Terry W. Thompson, Director
Telephone Number	(909) 387-5252
Contractor	**City of Loma Linda**
Contractor Representative	**T. Jarb Thaipeij, Public Works Director**
Telephone Number	(909) 799-4400
Contract Term	9/16/2009 – 2/15/26
Original Contract Amount	$ 8,291.00
Amendment Amount	$ 6,929.00
Total Contract Amount	$ 15,220.00
Cost Center	1910002518
GRC/PROJ/JOB No.	38002734
Internal Order No.	

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the San Bernardino County Flood Control District ("DISTRICT"), as licensor, and the City of Loma Linda ("LICENSEE"), as licensee, have entered into a License Agreement, Contract No. 10-752 dated July 27, 2010, (the "License"), wherein the DISTRICT agreed to license certain real property to LICENSEE, as more specifically described in the License, for a term that expired on September 15, 2019 and has continued on a permitted month-to-month holdover; and,

WHEREAS, DISTRICT and LICENSEE now desire to amend the License to reflect a seventeen-month holdover with DISTRICT's consent for the period from September 16, 2019 through February 15, 2021, to extend the term of the License, by the LICENSEE's exercise of the first of its four (4) five-year options, for the period of February 16, 2021 through February 15, 2026, adjust the annual license fee schedule, and amend certain other provisions of the License as more specifically set forth in this amendment ("First Amendment").

NOW, THEREFORE, in consideration mutual covenants and conditions and the foregoing recitals which are incorporated herein by reference, the parties hereto agree the License is amended as follows:

1. Pursuant to **Paragraph 15, HOLDING OVER**, LICENSEE shall, with DISTRICT's express consent granted herein, occupy the Premises on a month-to-month term for the period from September 16, 2019 through February 15, 2021 in the total amount of $1,393.00 for the duration of the holdover term.

2. Effective February 16, 2021, pursuant to LICENSEE's exercise of its option under **Paragraph 3., OPTION TO EXTEND TERM**, DELETE in its entirety the existing **Paragraph 2., TERM**, and SUBSTITUTE therefore the following as a new **Paragraph 2., TERM** which shall read as follows:

"2. **TERM:** The term of the License shall be for five (5) years, commencing on February 16, 2021 and expiring on February 15, 2026 unless other earlier terminated ("First Extended Term")."

3. Effective February 16, 2021, DELETE in its entirety the existing **Paragraph 4., FEES** and SUBSTITUTE therefore the following as a new **Paragraph 4., FEES** which shall read as follows:

"4. **FEES:**

A. LICENSEE shall pay to DISTRICT the following annual license fee payment in advance on the first day of each license year during the First Extended Term in the amounts as more specifically set forth below:

License Year	Total Annual Payments
February 16, 2021 thru February 15, 2022	$1,022
February 16, 2022 thru February 15, 2023	$1,063
February 16, 2023 thru February 15, 2024	$1,105
February 16, 2024 thru February 15, 2025	$1,150
February 16, 2025 thru February 15, 2026	$1,196

B. In addition to the fee payable pursuant to **Paragraph 4.A.**, LICENSEE shall pay to DISTRICT an annual inspection fee in advance on the first day of each license year during the First Extended Term for the annual inspection of the Premises by the DISTRICT. The annual inspection fee payable shall be equivalent to the Annual Inspection Fee shown on the District's Schedule of Fees Ordinance then in effect.

C. If any annual license fee payment or other sums due are not paid when due and payable, LICENSEE shall pay to DISTRICT an additional One Hundred and No/100 Dollars ($100.00) for each annual license fee payment or other sums due as an administrative processing charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs that DISTRICT will incur by reason of late payment by LICENSEE. Acceptance of any late charge shall not constitute a waiver of LICENSEE's default with respect to the overdue amount or prevent DISTRICT from exercising any of the other rights and remedies available to DISTRICT. Annual license fee payments and other sums not paid when due shall bear simple interest from date due at the rate of one and one-half percent (1½%) per month."

4. Effective February 16, 2021, DELETE in its entirety the existing **Paragraph 5., FEE ADJUSTMENTS**, and SUBSTITUTE therefore the following as a new **Paragraph 5.**, which shall read as follows:

"5. **RESERVED:**"

5. Effective February 16, 2021, DELETE in its entirety the existing **Paragraph 31., LAW AND VENUE**, and SUBSTITUTE therefore the following as a new **Paragraph 31. LAW AND VENUE**, which shall read as follows

"31. **LAW AND VENUE:** This License shall be construed and interpreted in accordance with the laws of the State of California. The parties acknowledge and agree that this License was entered into and intended to be performed in the County of San Bernardino, California. The parties agree that the venue for any action or claim brought by any party to this License will be the Superior Court of California, County of San Bernardino. Each party hereby waives any law, statute (including but not limited to Code of Civil Procedure section 394), or rule of court that

would allow them to request or demand a change of venue. If any third party brings an action or claim concerning this License, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino.

6. Effective February 16, 2021, DELETE in its entirety the existing **Paragraph 34., NOTICES**, and SUBSTITUTE therefore the following as a new **Paragraph 34., NOTICES** which shall read as follows:

"34. **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 by a reputable overnight courier service or sent by United States first-class mail, postage prepaid, 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. Notice shall be deemed delivered and effective upon the earlier of (i) actual receipt or (ii) the date of delivery or refusal of the addressee to accept delivery by a reputable overnight courier service or if notice is sent by United States mail, postage prepaid, certified or registered, return receipt requested. Any notices received after 5pm local time shall be deemed delivered on the next business day.

DISTRICT's address: San Bernardino County Flood Control District
c/o Real Estate Services Department
385 North Arrowhead Avenue, Third Floor
San Bernardino, CA 92415-0180

LICENSEE's address: City of Loma Linda
2554 Barton Road
Loma Linda, CA 92354"

7. Effective February 16, 2021, DELETE in its entirety the existing **Paragraph 37., ATTORNEYS' FEES AND COSTS** and SUBSTITUTE therefore the following as a new **Paragraph 37., ATTORNEYS' FEES AND COSTS** which shall read as follows:

"37. **ATTORNEYS' FEES AND COSTS:** If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third-party legal action against the DISTRICT, including such costs and attorneys' fees payable under **Paragraph 18, INDEMNIFICATION AND INSURANCE REQUIREMENTS, Paragraph 12, HAZARDOUS MATERIALS**, and **Paragraph 41, PUBLIC RECORDS DISCLOSURE.**"

8. Effective February 16, 2021, DELETE in its entirety the existing Paragraph **38., FORMER COUNTY OFFICIALS**, and SUBSTITUTE therefore the following as a new **Paragraph 38., FORMER COUNTY OR DISTRICT OFFICIALS** which shall read as follows:

"38. **FORMER COUNTY OR DISTRICT OFFICIALS:** LICENSEE agrees to provide or has already provided information on former County of San Bernardino ("COUNTY") or DISTRICT administrative officials (as defined below) who are employed by or represent LICENSEE. The information provided includes a list of former COUNTY or DISTRICT administrative officials who terminated COUNTY or DISTRICT employment within the last five (5) years and who are now officers, principals, partners, associates, or members of the business. The information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of LICENSEE. For purposes of this provision, "COUNTY or DISTRICT administrative official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY or DISTRICT Administrative Officer or member of such officer's staff, COUNTY or DISTRICT department or group head, assistant department or group head, or any

employee in the Exempt Group, Management Unit or Safety Management Unit (See Exhibit "4", List of Former County or District Officials)."

9. Effective February 16, 2021, DELETE in its entirety the existing Paragraph **40., USE OF AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDS AND REQUIREMENTS**, and SUBSTITUTE therefore the following as a new **Paragraph 40.**, which shall read as follows

"40. **RESERVED:**"

10. Effective February 16, 2021, DELETE in its entirety the existing **Paragraph 41. SCHEDULE OF EXPENDITURE OF FEDERAL AWARDS**, and SUBSTITUTE therefore the following as a new **Paragraph 41.,** , which shall read as follows:

"41. **RESERVED:**"

11. Effective February 16, 2021, ADD the following as a new **Paragraph 44., PUBLIC RECORDS DISCLOSURE; CONFIDENTIALITY**, which shall read as follows:

"44. **PUBLIC RECORDS DISCLOSURE; CONFIDENTIALITY:** All information received by the DISTRICT from the LICENSEE or any source concerning this License, including the License itself, may be treated by the DISTRICT as public information subject to disclosure under the provisions of the California Public Records Act, Government Code Section 6250 et seq. (the "Public Records Act"). LICENSEE understands that although all materials received by the DISTRICT in connection with this License are intended for the exclusive use of the DISTRICT, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any information which LICENSEE has reasonably requested DISTRICT to hold in confidence is made to the DISTRICT, the DISTRICT shall notify the LICENSEE of the request and shall thereafter disclose the requested information unless the LICENSEE, within five (5) days of receiving notice of the disclosure request, requests nondisclosure, provides DISTRICT a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold the DISTRICT harmless in any/all actions brought to require disclosure. LICENSEE waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event DISTRICT fails to notify LICENSEE of any such disclosure request and/or releases any information concerning this License received from the LICENSEE or any other source."

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

12. All other provisions and terms of the License shall remain the same and are hereby incorporated by reference. In the event of any conflict between the License and this First Amendment, the terms and conditions of this First Amendment shall control.

END OF FIRST AMENDMENT

SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT

►
Curt Hagman, Chairman, Board of Supervisors

Dated: FEB 09 2021

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

CITY OF LOMA LINDA

By ► _____
(Authorized signature - sign in blue ink)

Name T. Jarb Thaipejr
(Print or type name of person signing contract)

Title Public Works Director
(Print or Type)

Dated: _____

Address 2554 Barton Road
Loma Linda, CA 92354

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
►	►	►
Agnes Cheng, Deputy County Counsel		Jim Miller, Real Property Manager, RESD
Date 1/14/2021	Date	Date

EXHIBIT "4" - LIST OF FORMER COUNTY OR DISTRICT OFFICIALS

INSTRUCTIONS: List the full name of the former COUNTY or DISTRICT Administrative Official, the title/description of the Official's last position with the COUNTY or DISTRICT, the date the Official terminated COUNTY or DISTRICT employment, the Official's current employment and/or representative capacity with the LICENSEE, the date the Official entered LICENSEE's employment and/or representation.

OFFICIAL'S NAME:	REQUIRED INFORMATION

None

The undersigned hereby certifies that the information provided by LICENSEE n this Exhibit "B" is true, accurate, and complete.

CITY OF LOMA LINDA

By: _____

Title: _____

Date: _____