

**MEMORANDUM OF UNDERSTANDING
AND LICENSE AGREEMENT
Marina Coast Water District Temporary Use of
North Drainage Basin and Associated Storm Water Pipeline**

WHEREAS, the Marina Coast Water District (District) proposes to construct Well No. 34 requiring the initial short term discharge of about 2,500 gallons per minute (gpm) groundwater from well development associated with well installation, and

WHEREAS, a drainage basin and related storm water pipeline, designated herein as the North Drainage Basin (NDB), was constructed by East Garrison Partners I, LLC as part of the development of the East Garrison Project, located in the unincorporated area of the County of Monterey ("County"), and

WHEREAS the NDB is located along Reservation Road with an inlet located nearby the proposed Well No. 34 site draining water, in part, from the Well No. 34 well yard into the NDB for percolation into the ground, as illustrated in Appendix A, and

WHEREAS, the County owns the property on which the NDB is located and

WHEREAS UCP-East Garrison, LLC (UCP) acquired the assets of East Garrison Partners I, LLC which constructed the NDB and the storm water pipeline and

WHEREAS, the County may at some time consider acceptance as sole owner of the NDB and storm drain facilities referenced in this MOU; and

WHEREAS, the District desires to enter into an Agreement with the County and UCP to use the storm water inlet, pipeline and NDB for the discharge of water to percolate into the ground in the near term for well development not to exceed 2,500 gpm, and

WHEREAS, the District's development of Well No. 34 is expected to benefit the property served by the NDB by providing a drinking water and fire demand supply source.

WHEREAS, the District will limit discharges to periods when no rainfall is expected that would impact operation of the NDB drainage basin, and

WHEREAS, the California Department of Public Health may require the name of the Well No. 34 to change to Well No. 33;

NOW, THEREFORE, the County and UCP and the District (each referred to herein as a "Party" and collectively as the "Parties") agree as follows:

1. Use of Facility: County and UCP grant to the District a non-exclusive license for access and use of the North Drainage Basin and its associated storm water pipeline for

the sole purpose of conveying and draining groundwater resulting from development, testing and periodic maintenance of the water supply Well No. 34 for a period of one (1) year commencing from first notice of intended access to the NDB by the District, provided that the District does not materially reduce the percolation capacity of the facility. First notice of intended access shall occur within one year of the execution date of this Memorandum. Should a reduction in percolation capacity occur as a direct result of the District's discharge of well water into the NDB, the District shall be responsible for restoring said capacity at its own cost.

2. Access: District agrees for itself and its successors and assigns that the North Drainage Basin and associated pipeline shall be and remain the property of the County and UCP and may not be altered, obstructed or removed without the express written consent of the County and UCP. Such written consent shall not be unreasonably withheld in the event the District needs to improve the NDB percolation rate prior to, during, or after each District use of the NDB during the period of this license. The District and its contractors, agents and employees, shall have access to the NDB and associated pipeline and every part thereof, at all times for the purpose of exercising the rights herein granted, provided that the District shall provide notice to County and UCP of such intended access at least two (2) business days in advance (except in the case of an emergency, when notice shall be provided no later than 24 hours after entry onto the property);

3. As-Is Condition: The District acknowledges that the NDB and associated pipeline are in "As Is" condition without any representation, warranty, or guarantee by the County and UCP as to quantity, quality, character, condition, size, or kind, except as required pursuant to applicable law, or that the same is in condition for the purpose for which intended and no claim for allowance will be considered. There is no obligation on the part of the County and UCP to make any alterations, repairs, or additions, and said County and UCP shall not be liable to the District for any latent or patent defects in the Property. This section shall not affect the County and UCP's responsibility to meet local, state, and federal regulations applicable to the Utility.

4. Indemnification: District shall indemnify, defend and hold harmless the County and UCP, and each party's officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this MOU, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the District's performance of this MOU, unless such claims, liabilities, or losses arise out of the negligence or willful misconduct of the County or UCP, and then liability for such claims shall be apportioned according to fault. District's performance includes District's action or inaction and the action or inaction of District's officers, employees, agents and contractors. The County and UCP shall indemnify, defend and hold the District harmless from any and all claims from third parties for damage or expense arising out of the actions or omissions of the County and/or UCP, its agents and employees with respect

to the installation, operation, maintenance, repair or removal of the North drainage basin and its associated storm water pipeline during the period of this MOU. District waives any and all claims regarding the installation, operation, maintenance, repair or removal of the North drainage basin and its associated storm water pipeline as they relate to the District. In addition, District shall indemnify, defend and hold harmless the County and UCP for any and all claims regarding the nature or quality of the water or the use of the water placed in the basin, including but not limited to claims for water contamination or environmental contamination.

5. Termination: This Memorandum of Understanding shall terminate one (1) year from the date of first notice of intended access by the District. Any party may terminate this Memorandum at any time prior to the termination date upon giving the other party sixty (60) days written notice. Such notice shall set forth the effective date of such termination. In the event that the County becomes the sole owner of the NDB and associated storm drain pipeline while this Memorandum is still in effect, the County and UCP will provide the District written notification that UCP is no longer a Party to this Agreement and an amendment to this Memorandum, reflecting the same terms as contained herein, will be executed reflecting only the County and District as Parties. If required by the County, the District will obtain an encroachment permit for use of the storm drain inlet, pipeline and, if required, the NDB.


IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions above stated the day and the year dated below.

Marina Coast Water District

UCP-East Garrison, LLC

By: UCP, LLC, its sole member

By: Jim Heitzman - General Manager



By: Dustin Bogue - President

Date Signed

12.10.09

Date Signed

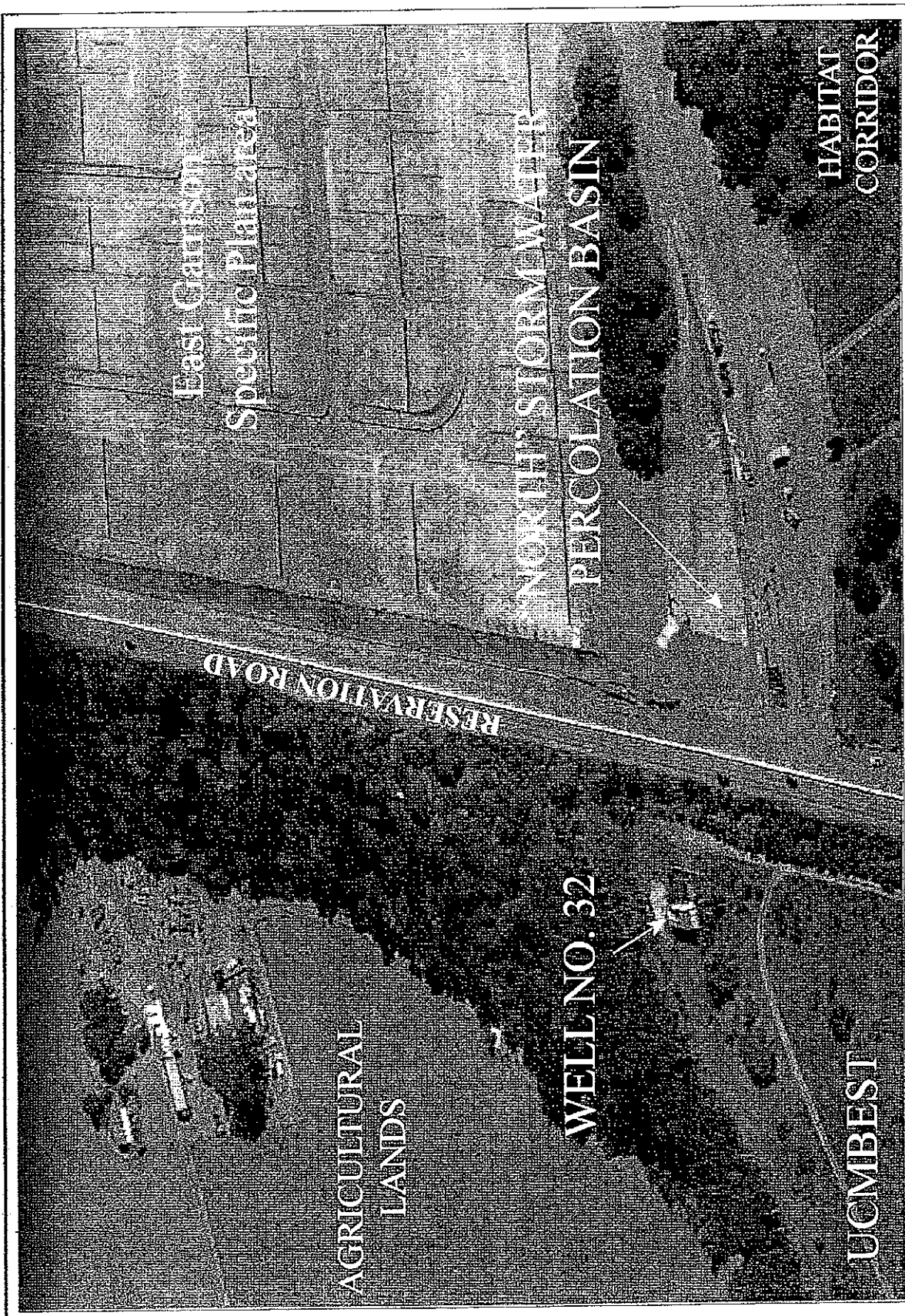
County of Monterey

By: Chair, Board of Supervisors

Date Signed

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APPENDIX A



<p>Figure 2</p>	<p>Project Site Aerial Photograph</p>
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Source: Schaaf and Wheeler, September 24, 2008.



Well Project Site Plan with Disposal to North Basin

Figure 3

