



Is LEAMS an approved offset program?

The Regional Board approved the use of LEAMS to demonstrate compliance with the TMDL-WLA as part of the Comprehensive Nutrient Reduction Plan (CNRP):

"Through agreements established with other stakeholders and as part of CNRP implementation, the MS4 Permittees will participate in the operation of the in-lake aeration system. At this time, based on lake modeling and compliance analyses, the MS4 Permittees believe the aeration system will provide the necessary nutrient load reductions to comply with urban WLAs."

CNRP §2.2.2 @ pg. 2-10

"The Lake Elsinore aeration system, incorporated into the CNRP, is already being implemented. During CNRP implementation the MS4 permittees will support the continued operation of this system as needed to comply with urban WLAs."

CNRP §E.2.2 @ pg. E-2

"RCFCD, the County of Riverside, and the Cities of Riverside, Lake Elsinore, Canyon Lake, Hemet, San Jacinto, Perris, Moreno Valley, Murrieta, Menifee, Wildomar and Beaumont are in compliance with Section VI.D.2.d of the Riverside County MS4 permit provided that the CNRP is implemented in a timely manner."

Santa Ana Regional Board Res. No. R8-2013-0044 (approving the CNRP)

Note: Section VI.D.2.d of the MS4 permit refers to the Final Water Quality Based Effluent Limits for the Lake Elsinore/Canyon Lake (San Jacinto Watershed) Nutrient TMDLs.

LESJWA Administration Budget - LEAMS Credit Licensing Program

Task 1 - Establish the Number and Cost of the Available Credits	FY 2016-17		FY 2017-18	
	Hours	Budget	Hours	Budget
Implement a regular annual process to coordinate with LEAMS Operators to acquire LEAMS operating costs and employed/excess offset credit data.	8	\$ 1,560	4	\$ 840.00
Estimate pro-rated discounted costs for excess offset credits to stakeholders generated in calendar years prior to 2016 based upon a 10 year rolling average, subject to the written approval by the LEAMS Operators.	8	\$ 1,560	4	\$ 840.00
Complie LEAMS project operating costs and offset credits into a "LEAMS Operating Costs and Offset Credits spreadsheet". Design and maintain spreadsheet to track by year 1) annual LEAMS operator costs 2) number of annual LEAMS offset credits employed by individual operator 3) number and cost of current year excess annual LEAMS offset credits 4) number and cost of previous years excess LEAMS offset credits and 5) purchased excess LEAMS offset credits by stakeholders.	20	\$ 3,880	4	\$ 840.00
Obtain Operators approval of completed annual "LEAMS Operating Costs and Offset Credits spreadsheet" prior to sharing with stakeholders.	8	\$ 1,560	2	\$ 450.00

Task 2 – Stakeholder Coordination

LESJWA, operating as the exclusive agent to administer licenses for excess offset credits, will provide notice to stakeholders of the availability and cost of offset credits.	4	\$ 850	4	\$ 890.00
Perform sharing and follow-up coordination activities with stakeholders including the preparation of materials to share with stakeholders Board of Directors.	16	\$ 2,720	16	\$ 2,860.00

Task 3 – Stakeholder Credit and Contribution Tracking

Manage updates to the "LEAMS Costs and Credits spreadsheet" for annual year purchases of LEAMS offset credits by stakeholders.	12	\$ 2,360	4	\$ 890.00
Perform all accounting functions of LEAMS including invoice letter preparation and management of all financial transactions using accepted accounting practices and a dedicated interest bearing account.	8	\$ 1,070	8	\$ 1,120.00
Prepare annual reports for submittal to Regional Board detailing and summarizing participation in the LEAMS offset program. Additionally, LESJWA will provide copies of all such reports to the LEAMS Operators, as well as participating stakeholders at the same time such reports are submitted to the Regional Board.	20	\$ 3,880	8	\$ 1,690.00

Total: 104 \$ 19,440 54 \$ 10,420



**Summary of Phosphorus and Nitrogen Offset Credits
for the Lake Eisnore Aeration and Mixing System (LEAMS)**

1. How many PHOSPHORUS offset credits are generated by LEAMS?

Phosphorus	Without LEAMS	With LEAMS
A) Total Maximum Daily Load (TMDL)	28,584 kg/yr	28,584 kg/yr
B) Sediment Releases*	33,160 kg/yr	21,554 kg/yr
C) Offset Credits Available (Line A – Line B)	-4,576 kg/yr	7,030 kg/yr

** The approved TMDL stipulates that LEAMS will reduce phosphorus loads released from lake bottom sediments by 35%.*

$$35\% \text{ of } 33,160 \text{ kg/yr} = 11,606 \text{ kg/yr}$$

$$33,160 \text{ kg/yr} - 11,606 \text{ kg/yr} = 21,554 \text{ kg/yr}$$

$$28,584 \text{ kg/yr} - 21,554 \text{ kg/yr} = 7,030 \text{ kg/yr}$$

$$7,030 \text{ kg-per-yr} / 2,000 \text{ hours-per-year} = 3.515 \text{ kg/hr}$$

2. How many NITROGEN credits are generated by LEAMS?

52,616 kg/yr TN offset w/ 2,340 operating hours = 22.49 kg/hr (Dr. Alex Horne; Dec., 2012)

65,310 kg/yr TN offset w/ 4,824 operating hours = 13.54 kg/hr (Dr. Alex Horne; Mar., 2015)

Dr. Horne states that the number of offset credits generated by LEAMS is not linearly related to the number of operational hours. It is a diminishing-returns function. Therefore, for purposes of developing the offset credit licensing agreement, we will assume that the first 2,000 hours of LEAMS operation will offset 44,000 kg of nitrogen (22 kg per hour).

Terms & Conditions Recommended, but Not Included, in the Revised Agreement
(additional discussion required)

x. **Remittance.** At the end of each quarter, LESJWA shall remit to the OPERATORS, all license fees for LEAMS credits collected under this Agreement ("Fees"). The Fees shall be distributed to each OPERATOR in one-third (1/3rd) shares. LESJWA shall also submit to each OPERATOR a quarterly itemized statement which indicates, the licenses sold and the Fees collected by LESJWA.

y. **Indemnity**

LESJWA agrees to indemnify, defend (with counsel approved by OPERATORS) and hold harmless OPERATORS and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of its obligations under this Agreement.

OPERATORS agrees to indemnify, defend (with counsel approved by LESJWA) and hold harmless LESJWA and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of its obligations under this Agreement.

z. **Insurance.** LESJWA shall take out and maintain, during the performance of all work under this Agreement: (a) Commercial General Liability Insurance, of at least \$1,000,000 per occurrence/\$3,000,000 aggregate for bodily injury, personal injury and property damage, at least as broad as Insurance Work Office Commercial General Liability coverage (Occurrence Form CG 001); (b) Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles of at least \$1,000,000 per occurrence for bodily injury and property damage, at least as broad as Insurance Work Office Form Number CA 0001 (ed. 6/92) covering automobile liability, Code 1 (any auto); and (c) Workers' Compensation in compliance with applicable statutory requirements and Employer's Liability Coverage of at least \$1,000,000 per occurrence. The OPERATORS, its elected officials, officers, employees, agents and authorized volunteers shall be named as additional insureds on LESJWA's policies of Commercial General Liability and Automobile Liability insurance. Insurance carriers shall be authorized by the Department of Insurance, State of California, to do business in California and maintain an agent for process within the state. Such insurance carrier shall have not less than an "A"; "Class VIII" rating according to the latest Best Key Rating unless otherwise approved by the OPERATORS. Insurance, if required by OPERATORS, must name OPERATORS as "Additional Insured" and a waiver of subrogation in favor of the OPERATORS shall apply.

1 **EXCLUSIVE LICENSE AGREEMENT for EXCESS OFFSET CREDITS**
2 **GENERATED by the LAKE ELSINORE AERATION & MIXING SYSTEM (LEAMS)**
3
4

5 This EXCLUSIVE LICENSE AGREEMENT for EXCESS OFFSET CREDITS generated by the LAKE
6 ELSINORE AERATION & MIXING SYSTEM (LEAMS) (hereinafter the "License Agreement") is
7 made by and among the COUNTY OF RIVERSIDE ("COUNTY"), the CITY OF LAKE ELSINORE
8 ("CITY"), the ELSINORE VALLEY MUNICIPAL WATER DISTRICT ("DISTRICT") and the LAKE
9 ELSINORE AND SAN JACINTO WATERSHEDS AUTHORITY ("AUTHORITY"). The COUNTY, CITY,
10 DISTRICT and AUTHORITY are hereinafter collectively referred to as the "PARTIES." This License
11 Agreement, once executed by all PARTIES, becomes effective on January 1, 2017.
12

13 **RECITALS**
14

- 15 a. The CITY, DISTRICT and COUNTY are individual member agencies of the Lake
16 Elsinore and San Jacinto Watersheds Authority. The AUTHORITY is a joint
17 powers public agency formed for the purpose of implementing programs and
18 projects to rehabilitate and improve water quality in Lake Elsinore and Canyon
19 Lake and the watersheds that are tributary to these lakes.
20
- 21 b. The CITY holds title to and operates the Axial Flow Water Pump Destratification
22 System ("Mixing System") located in Lake Elsinore.
23
- 24 c. The DISTRICT holds title to and operates the Lake Elsinore Phase II Aeration
25 System ("Aeration System") located in Lake Elsinore.
26
- 27 d. Collectively, the Mixing System and the Aeration System are known as the Lake
28 Elsinore Aeration and Mixing System ("LEAMS"). In general, the two systems are
29 run in tandem and operate on the same schedule.
30
- 31 e. The annual costs to operate and maintain LEAMS is shared equally between the
32 CITY, DISTRICT and COUNTY. For the purpose of implementing this License
33 Agreement, these three cost-sharing partners are identified collectively as the
34 "OPERATORS."
35
- 36 f. The operation of LEAMS is intended to improve water quality in Lake Elsinore by
37 improving the average concentration of dissolved oxygen. This, in turn, helps
38 reduce the average concentration of nitrogen and phosphorus ("nutrients") in
39 the lake. Elevated nutrient concentrations contribute to excessive algae growth
40 and interferes with recreation in Lake Elsinore. In addition, too much algae
41 adversely affects the aquatic habitat and increases the risk of fish kills. LEAMS
42 was designed and implemented to help prevent and reduce these challenges.
43

44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

- g. The Santa Ana Regional Water Quality Control Board ("Regional Board") adopted a Total Maximum Daily Load ("TMDL") to improve water quality in Lake Elsinore by controlling the amount of nutrients in the lake. The CITY, DISTRICT, COUNTY, and numerous other stakeholders identified in the TMDL are obligated to limit their nutrient contributions (called "loads") to Lake Elsinore.
- h. When the TMDL was adopted, the Regional Board acknowledged that operation of LEAMS was expected to reduce internal phosphorus loads originating from lake bottom sediments by 35% or approximately 11,606 kg/yr. Subsequent studies, conducted at the direction of the Regional Board, also demonstrated that the operation of LEAMS was reducing the total mass of nitrogen in Lake Elsinore by an average of approximately 53,616 kg/yr.
- i. The Regional Board requires the DISTRICT to conduct additional studies, once every three years, to reevaluate and confirm the overall effectiveness of LEAMS at reducing nutrient concentrations in Lake Elsinore. The results are submitted in a formal written report to the Regional Board. After the Regional Board accepts that report, the nutrient reductions generated by LEAMS are considered approved "offset credits" provided LEAMS is operated in accordance with the requirements of the DISTRICT's NPDES permit.
- j. LEAMS is generally required to operate no less than 2,000 hours per year. Therefore, on average, each hour of LEAMS operation generates approximately 3.5 kg of phosphorus reduction credits and 22 kg of nitrogen reduction credits.
- k. All credits generated by the operation of LEAMS are the exclusive property of the OPERATORS, and are owned in joint tenancy by the OPERATORS, and may not be sold or transferred without the unanimous written consent of the OPERATORS.
- l. The Regional Board allows LEAMS credits to be used to demonstrate compliance with the Waste Load Allocations ("WLA") or Load Allocations ("LA") specified in the TMDL. The Regional Board recognizes LEAMS as an approved offset program provided that LEAMS is operated in accordance with the DISTRICT's NPDES permit.
- m. Based on experience to date, the operation of LEAMS typically generates more offset credits than the OPERATORS need in order to assure their own compliance with the TMDL's nutrient load restrictions. Therefore, the OPERATORS desire to license some of the excess offset credits to other stakeholders named in the TMDL so that these other stakeholders may rely on said credits to meet their own TMDL compliance obligations subject to the review and approval of the Regional Board.

88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130

- n. Given the relatively large number of stakeholders that may be interested in licensing excess offset credits to meet their own TMDL compliance obligations, the OPERATORS determined it would be more efficient to administer all licensing-related activity through the AUTHORITY.
- p. This document describes the Terms and Conditions under which the OPERATORS agree to license excess offset credits to other stakeholders named in the TMDL using the AUTHORITY as their exclusive agent.

TERMS AND CONDITIONS

1) THE AUTHORITY AS EXCLUSIVE AGENT

- a. The OPERATORS hereby designate the AUTHORITY as their exclusive agent to market and administer limited-used licenses for any excess offset credits generated by LEAMS to other stakeholders with TMDL compliance obligations. The AUTHORITY shall have full and complete responsibility for marketing the licenses for LEAMS credits and for collecting and remitting required license fees to the OPERATORS.
- b. All expenses incurred by the AUTHORITY to market and administer the LEAMS offset credit licensing program shall be reimbursed solely from the sale of offset credit licenses. The AUTHORITY is entitled to retain a sum, not to exceed \$20,000 in the first year of this agreement and not to exceed \$12,000 in any subsequent year of this agreement, from the proceeds received from gross sales before remitting the remainder to the OPERATORS.
- c. In the event that the proceeds received from gross sales are insufficient to reimburse the AUTHORITY's expenses, as described above, the OPERATORS have no obligation to compensate the AUTHORITY for any difference or deficiency.
- d. The AUTHORITY shall have primary responsibility for filing annual reports to the Regional Board detailing and summarizing the disposition of all LEAMS offset credits. The AUTHORITY shall provide a copy of all such reports to the OPERATORS at the same time these reports are submitted to the Regional Board. The DISTRICT shall continue to have primary responsibility for developing the documentation required to confirm the validity of the offset credits generated by LEAMS and for reporting this information to the Regional Board in accordance with the DISTRICT's NPDES permit.

131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173

2) EXCLUSIVE LICENSES FOR EXCESS OFFSET CREDITS

- a. No later than April 15th of each year, the OPERATORS shall notify the AUTHORITY of the total number off excess offset credits, generated in the prior calendar year, that are being made available for license to other TMDL stakeholders. The AUTHORITY shall not convey licenses until officially notified that excess offset credits are available. All notices shall be in writing and directed as described in Section 5 of this agreement.
- b. Available excess offset credits shall be licensed in one hour blocks of LEAMS operating time. Each available credit hour will be individually identified based on the year the credit was generated and a unique sequential number (e.g. 2016-0129, 2019-0257, etc.). Each one hour block of LEAMS operating time represents a phosphorus reduction credit of 3.5 kg and a nitrogen reduction credit of 22 kg for the year indicated by the block ID number.
- c. The AUTHORITY is authorized to offer other TMDL stakeholders an exclusive license to purchase and use available LEAMS offset credits for any lawful purpose subject to all of provisions of this License Agreement. Each individually-numbered one hour block of LEAMS offset credits may be licensed for a one-time license fee of \$300.00. OPERATORS may also authorize the AUTHORITY to market licenses for unused excess credits generated in calendar years prior to 2016, and to offer pro-rated discounts for credits generated in calendar years 2009 through 2015, subject to the written approval by the OPERATORS.
- d. The AUTHORITY shall provide an annual accounting report detailing all fees collected for licenses sold in a given calendar year, and all marketing and administration expenses for that same calendar year, to the OPERATORS by January 31st of the following calendar year. Following receipt of this accounting report, the OPERATORS shall provide the AUTHORITY with detailed instructions on how to disperse the net proceeds from the sale of LEAMS offset credit licenses in the prior calendar year.

3) SALE OF LICENSES FOR EXCESS OFFSET CREDITS

- a. Ownership of all LEAMS facilities and of all offset credits generated by these facilities shall remain with the OPERATORS. Only an exclusive license to use the credits, as part of an approved offset program, is being offered by the OPERATORS pursuant to this License Agreement.

- 174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
- b. The sale or purchase of LEAMS excess offset credits in any given year does not create an obligation to sell or buy licenses for LEAMS excess offset credits in any other year. OPERATORS may elect to increase or decrease the number of available LEAMS excess offset credits at their sole discretion. However, OPERATORS shall not retroactively reduce the number of LEAMS excess offset credit licenses available for sale in any given year below the number of licenses already sold for that same year.
 - c. LEAMS excess offset credit licenses may not be bought, sold, leased, loaned, borrowed or transferred except through the AUTHORITY acting as the Exclusive Agent for the OPERATORS. Any attempt to do so automatically and irrevocably invalidates each specific license involved without recourse to the licensee.
 - d. Neither the OPERATORS or the AUTHORITY offer any warranty whatsoever regarding the use of LEAMS excess offset credits. It is the sole responsibility of each prospective licensee to determine for itself and to its own satisfaction, through direct consultation with the Regional Board, how LEAMS excess offset credits may be lawfully used to demonstrate compliance with the TMDL or any related provisions of state and federal waste discharge requirements BEFORE purchasing any excess offset license. Prospective licensees are expressly warned not to rely on any statements or representations made in this License Agreement without further confirmation by the Regional Board.
 - e. Although each excess offset credit block is governed by a license, only the Regional Board can determine the length of time any given block of excess offset credits may be used to compute compliance. The OPERATORS and the AUTHORITY make no representation or warranty concerning the length of time any given block of excess offset credits may be used for compliance.
 - f. Fees paid to license LEAMS excess offset credits are non-refundable.
 - g. OPERATORS prepare and approve annual operating budgets and summaries of actual annual expenses in accordance with their separate O&M Agreement for LEAMS. Copies of these accounting documents shall be provided to the AUTHORITY no later than 30 days after they have been approved by the OPERATORS.

- 212 h. Fees paid to license LEAMS excess offset credits shall become the sole property
213 of the OPERATORS. Said fees may be used to offset past or future LEAMS
214 operating expenses, effect LEAMS repairs, replace or expand LEAMS, held for a
215 LEAMS contingency, or any other lawful purpose related to LEAMS at the sole
216 discretion of the OPERATORS. The OPERATORS shall not be required to account
217 for the expenditure of any fees received from the sale of licenses for excess
218 offset credits.
219
- 220 i. The OPERATORS warrant that LEAMS was operated in accordance with
221 requirements established by the Regional Board and in a manner that they
222 reasonably believe generated the nutrient reduction credits now made available
223 for licensing by others. The operating reports, water quality monitoring data and
224 special studies used to support the estimated credit calculations are regularly
225 submitted to the Regional Board under penalty of perjury. A copy of all such
226 documents shall be provided to the AUTHORITY no later than 30 days after these
227 documents are submitted to the Regional Board.
228
- 229 j. Because the licenses offered are for excess offset credits generated by LEAMS in
230 the prior calendar year, the purchase of such licenses imposes no further
231 obligation on the licensee to operate, maintain, fund or support LEAMS in any
232 other way. The OPERATORS, and not the AUTHORITY, bear sole responsibility for
233 affirming the validity of all offset credits declared and reported to the Regional
234 Board.
235
- 236 k. Because licenses are purchased for excess offset credits generated in the prior
237 calendar year, and the licensees had no role or responsibility whatsoever for the
238 day-to-day operations of LEAMS, the licensees are not liable for injury or
239 damages which may occur as a result of the actions or omissions of the
240 OPERATORS as these credits were being generated. The OPERATORS, and not
241 the AUTHORITY, shall indemnify and defend the licensees against any and all
242 claims for injuries or damages related to the operation of LEAMS.
243
- 244 l. OPERATORS are not responsible for any cost, expense, loss or other
245 consequential damages that may be incurred by licensees in the event the excess
246 offset credit program is subsequently ruled invalid or illegal by any state or
247 federal regulatory agency or by a court of competent jurisdiction.
248
- 249 m. The AUTHORITY shall provide a full and complete copy of this License Agreement
250 to any prospective licensee. Furthermore, each prospective licensee must
251 provide written and dated confirmation that it has received, read and
252 understood the entirety of this License Agreement as a prerequisite condition for
253 purchasing a license for excess offset credits.
254

- 255 n. The PARTIES are required to notify one another as soon as is reasonably possible
256 if and when either becomes aware of any change in conditions that may
257 materially and adversely affect the validity of the LEAMS excess offset credits or
258 the ability of licensees to rely on such credits to meet TMDL compliance
259 obligations. The AUTHORITY is solely responsible for notifying each individual
260 licensee as described below.
261
- 262 o. The AUTHORITY and each Licensee are required to notify one another as soon as
263 is reasonably possible if and when either becomes aware of any change in
264 conditions that may materially and adversely affect the validity of the LEAMS
265 offset credits or the ability of licensees to rely on such credits to meet TMDL
266 compliance obligations. Individual licensees may, but are not required to,
267 provide similar notice to other individual licensees.
268
- 269 p. The AUTHORITY and all licensees are entitled to inspect the LEAMS facilities and
270 may do so, upon request, at a time that is mutually convenient with the
271 OPERATORS.
272
- 273 q. The OPERATORS are not entitled to reclaim any previously licensed excess offset
274 credits without written consent of the licensee.
275
276

277 **4. GENERAL PROVISIONS**
278

- 279 a. **Jurisdiction.** This Agreement shall be deemed to have been made in Riverside
280 County, California regardless of the order of the signatures of the PARTIES
281 affixed hereto. Any litigation or other legal proceedings which arise in
282 connection with this Agreement shall be conducted in a federal or state court
283 located within or for Riverside County, California. All PARTIES hereby waive any
284 defenses or objections based on the Doctrine of Forum Non-conveniens.
285
- 286 b. **Property Rights.** No property rights are created or changed by this License
287 Agreement.
288
- 289 c. **Third Parties.** There are no third-party beneficiaries created, intended or
290 recognized by this License Agreement.
291
- 292 d. **Entire Agreement.** This written License Agreement constitutes the full and
293 complete agreement between PARTIES. This License Agreement supersedes any
294 and all previous agreements, either oral or written, between the PARTIES hereto
295 and contains all of the terms, conditions and agreements between the PARTIES
296 with respect to the subject matter of this License Agreement.
297

- 298 e. **Amendments.** This License Agreement may only be amended by written
299 consent of all PARTIES. However, the terms & conditions of any previously
300 issued license may not be revised retroactively without the additional written
301 consent of the licensee.
302
- 303 f. **Regional Board Review.** A full and complete copy of this License Agreement has
304 been provided to the Regional Board staff for review to ensure consistency with
305 the assumptions and requirements of the TMDL and the Comprehensive
306 Nutrient Reduction Plan (CNRP). Any changes proposed by the Regional Board
307 must be approved, in writing, as formal amendments to this License Agreement.
308 All amendments to this License Agreement shall also be submitted to the
309 Regional Board for review.
310
- 311 g. **Cooperation.** The PARTIES agree to cooperate with one another to fulfill all
312 regulatory and contractual obligations related to this License Agreement. The
313 PARTIES further agree not to engage in any activities that undermine or
314 jeopardize the validity of the LEAMS offset credits or the related licenses offered
315 for sale to others.
316
- 317 h. **Waivers.** Failure to exercise any right or remedy related to this License
318 Agreement shall not be construed as a waiver of that right or remedy.
319
- 320 i. **Severability.** Any provision of this License Agreement that is subsequently found
321 to be unconstitutional, illegal, or otherwise unenforceable shall be deemed void
322 without subsequent effect on any of the remaining provisions in the Agreement
323 which shall continue to be implemented as originally intended.
324
- 325 j. **Term.** This License Agreement shall expire on June 30, 2022 unless the PARTIES
326 agree, in writing, to extend that date. However, all licenses purchased prior to
327 the expiration date of this License Agreement shall remain valid.
328
- 329 k. **Default.** Failure by a Party to comply with and observe any of the conditions,
330 terms, or covenants set forth in this Agreement, if such failure remains uncured
331 within thirty (30) days after written notice of such failure from the other Party in
332 the manner provided herein or, with respect to a default that cannot be cured
333 within thirty (30) days, if the Party in default fails to commence such cure within
334 such thirty (30) day period or thereafter fails to diligently and continuously
335 proceed with such cure to completion. However, if a different cure period is
336 specified under any other section of this Agreement, then the specific cure
337 period shall control.
338

339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381

i. Independent Contractor. In performing under this Agreement, it is mutually understood that the AUTHORITY is acting as an independent contractor, and not as an agent of the OPERATORS. The OPERATORS shall have no responsibility for payment to any contractor, subcontractor or supplier of the AUTHORITY. Nothing herein contained shall be deemed to create an agency, joint venture, partnership or franchise relationship between the PARTIES hereto, or between the PARTIES and any contractor retained by the OPERATORS in connection with the services provided under this Agreement, or between the PARTIES and any person or organization that purchases a license for excess offset credit pursuant to this Agreement.

m. Authority and Requisite Action. The individuals executing this Agreement (the "Signatories") covenant that they have the legal power, right and authority to enter into this Agreement and to bind their respective principals/entities to the terms and conditions set forth herein. Furthermore, the Signatories covenant that all requisite action has been taken by their respective principals/entities in connection with the entering into this Agreement and the instruments referenced herein, and the consummation of the transactions contemplated hereby.

n. Maintenance and Inspection. The AUTHORITY shall maintain complete and accurate records with respect to all licenses and fees under this Agreement. All such records shall be clearly identifiable. The AUTHORITY shall allow a representative of OPERATORS to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during normal business hours. The AUTHORITY shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

o. Prohibited Interests. The AUTHORITY warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for LESJWA, to solicit or secure this Agreement. Further, the AUTHORITY warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for LESJWA, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, OPERATORS shall have the right to rescind this Agreement without liability. For the term of this Agreement, no official, officer or employee of the OPERATORS, during the term of his or her service with the OPERATORS, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416

- p. **Dispute Resolution.** Any dispute which may arise by and between the parties to this Agreement shall be submitted to non-binding mediation. Such mediation shall be conducted by any neutral, impartial mediation service that the Parties mutually agree upon, in writing, and in accordance with its rules in effect at the time of the commencement of the mediation proceeding.
- q. **Attorney's Fees.** The prevailing party in any action to enforce any provision of this Agreement shall be entitled to its reasonable attorney's fees and costs.
- r. **Counterpart Execution.** This License Agreement may be signed in separate counterparts, each of which is an original and all of which, taken together, form one single binding document.

5. **NOTIFICATIONS**

- a. **All notifications made pursuant to this agreement shall be in writing.**
- b. **Notifications to the City of Lake Elsinore shall be directed to:**
 - Name: Grant Yates
 - Title: City Manager
 - Address: 130 S. Main Street
 - Addl. Address: _____
 - City, State, Zip: Lake Elsinore, CA 92530
 - Main Office Phone: (951) 674-3124
 - Email Address: _____
 - Alternate Name: _____
 - Alternate Phone: _____
 - Alternate Email: _____

417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443

c. Notifications to Elsinore Valley Municipal Water District shall be directed to:

Name: _____
Title: _____
Address: _____
Addl. Address: _____
City, State, Zip: _____
Main Office Phone: _____
Email Address: _____
Alternate Name: _____
Alternate Phone: _____
Alternate Email: _____

d. Notifications to the County of Riverside shall be directed to:

Name: _____
Title: _____
Address: _____
Addl. Address: _____
City, State, Zip: _____
Main Office Phone: _____
Email Address: _____
Alternate Name: _____
Alternate Phone: _____

444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469

- e. **All notifications to Lake Elsinore San Jacinto Watersheds Authority (LESJWA) shall be directed to:**

Name: _____

Title: _____

Address: _____

Addl. Address: _____

City, State, Zip: _____

Main Office Phone: _____

Email Address: _____

Alternate Name: _____

Alternate Phone: _____

- f. The AUTHORITY shall maintain a directory of all past and present licensees with current contact information similar to that shown above and distribute an updated copy of that directory at least once a year to the OPERATORS and the Regional Board.

IN WITNESS WHEREOF, the OPERATORS and the AUTHORITY have affixed their signatures and caused this License Agreement to be effective as of the date shown on the first page of this document:

470 **For the CITY OF LAKE ELSINORE:**

471 _____
472 Date Mayor

473 _____
474 Approved As To Form:

475 _____
476 Date City Attorney

477 _____
478 _____

479 **For the ELSINORE VALLEY MUNICIPAL WATER DISTRICT (EVMWD)**

480 _____
481 Date President, Board of Directors

482 _____
483 Approved As To Form:

484 _____
485 Date Counsel for EVMWD

486 _____
487 _____

488 **For the COUNTY OF RIVERSIDE**

489 _____
490 Date Chairman, Board of Supervisors

491 _____
492 Approved As To Form:

493 _____
494 Date Counsel for the County of Riverside

495 _____
496 Attested:

497 _____
498 Date Clerk for the Board of Supervisors

499 _____
500 _____

501 **For the LAKE ELSINORE SAN JACINTO WATERSHEDS AUTHORITY (LESJWA)**

502 _____
503 Date Chairman, Board of Directors

504 _____
505 Approved As To Form

506 _____
507 Date Counsel for LESJWA