

LICENSE TO ENTER AND USE PROPERTY

This LICENSE TO ENTER AND USE PROPERTY (this “**License**”), dated as of _____, 2021 for reference purposes, is made by and between the CITY AND COUNTY OF SAN FRANCISCO, a California municipal corporation (“**City**”), by and through the San Francisco Public Utilities Commission (“**SFPUC**”), and the CITY OF DALY CITY, a California municipal corporation (“**Licensee**”).

RECITALS

A. Licensee and City are among the parties to that certain agreement entitled “Agreement for Groundwater Storage and Recovery from the Southern Portion of the Westside Basin” with an effective date of December 16, 2014 (the “**Operating Agreement**”). The terms of the Operating Agreement are incorporated into this License as if fully set forth in this License and capitalized terms used in this License that are not otherwise defined shall have the same meaning assigned to such terms in the Operating Agreement.

B. Article 8 of the Operating Agreement contemplates that, after the SFPUC constructs two Project Wells within Licensee’s water service area, **(1)** Licensee will operate and maintain such Project Wells for the benefit of the SFPUC’s Regional Water System in accordance with the provisions of **(a)** the Operating Agreement, **(b)** annual operation, maintenance and monitoring plans, **(c)** annual operating schedules agreed upon and issued by the Operating Committee as contemplated by Section 8.6 of the Operating Agreement, and **(d)** the provisions of this License and **(2)** that the SFPUC will annually reimburse Licensee for certain incurred operations and maintenance expenses.

C. City has constructed two Project Wells (the “**City Wells**”) on two parcels of City-owned real property in the County of San Mateo, located at 377 South Park Plaza Drive, Daly City, California and 370 South Park Plaza Drive, Daly City, California, and two eight-inch diameter raw water pipelines that connect the City Wells to Daly City’s water distribution system shown on **Exhibit A** (collectively, “**City’s Well Sites**”).

D. City desires that Licensee enter onto City’s Well Sites to operate and maintain (the “**Work**”) the City Wells as discussed in Recital B above, in accordance with the terms and conditions of the Operating Agreement and this License.

LICENSE

Licensee and City agree as follows:

1. ENTRY; PERMISSION TO ENTER

City grants Licensee and all of Licensee's agents, employees, contractors, subcontractors, representatives, and other persons designated by Licensee, including their respective employees (collectively, Licensee’s “**Agents**”), reasonable nonexclusive access to City’s Well Sites shown on the attached **Exhibit A** to perform the Work.

At all relevant times, Licensee shall conduct the Work in accordance with the applicable requirements of the Operating Agreement, commercially reasonable groundwater well operating practices, and the terms of this License and Exhibits B and C. Licensee’s entry and use of the City’s Well Sites shall be for the sole purpose of conducting the Work. This License gives Licensee a license only and notwithstanding anything to the contrary in this License or the Operating Agreement, does not constitute a grant by City of any ownership, leasehold, easement, or other property interest or estate whatsoever in any portion of City’s Well Sites.

2. TERM OF LICENSE

The term (the “**Term**”) of this License shall commence on the date (the “**Commencement Date**”) it is mutually executed and delivered by the parties and continue during the term of the Operating Agreement until June 30, 2034, or such later date that the term of the Operating Agreement is extended pursuant to its terms or such earlier date that the Operating Agreement is terminated pursuant to its terms.

3. COMPLIANCE WITH LAWS

Licensee shall conduct and cause to be conducted all activities on the City’s Well Sites allowed pursuant to this License in a safe and prudent manner and in compliance with the terms of the Operating Agreement, decisions by the Operating Committee established under Article 10 of the Operating Agreement, the provisions of any applicable water supply permits issued by the California State Water Resources Control Board Division of Drinking Water (as they may be amended as contemplated by Section 8.7 of the Operating Agreement), and all laws, regulations, codes, ordinances, and orders of any governmental or other regulatory entity with jurisdiction over such activities. Licensee shall use, and shall cause its Agents to use, due care at all times to avoid damage or harm to Project Facilities within City’s Well Sites, and shall maintain the City Wells and City’s Well Sites in a good, clean, safe, secure, sanitary, and slightly condition.

4. RESTRICTIONS ON USE

(a) **Improvements.** Licensee shall not conduct any excavation activities, plant trees or other vegetation, or construct or place any temporary or permanent structures or improvements in, on, under, or about the City’s Well Sites, nor shall Licensee make any alterations or additions to any Project Facilities on City’s Well Sites, unless Licensee first obtains City’s prior written consent, which City may give, condition, or withhold at its sole and absolute discretion. All Work performed by Licensee’s contractors, subcontractors, and third-party consultants on Project Facilities at City’s Well Sites shall be subject to City’s prior written consent.

(b) **Dumping.** Licensee shall not cause or permit the dumping or other disposal in, on, under, or about City’s Well Sites of landfill, refuse, Hazardous Material (defined in **subsection (c)** below) or any other materials, including materials that are unsightly or could pose a hazard to the human health or safety, native vegetation or wildlife, or the environment.

(c) **Hazardous Materials.** Except as specifically approved by City in writing, Licensee shall not cause, nor allow any of its Agents to cause, any Hazardous Material (as defined below) to be brought upon, kept, used, stored, generated, released, or disposed of in, on, under, or about City’s Well Sites, or transported to, from, or over City’s Well Sites. Licensee shall immediately notify City when Licensee learns of, or has reason to believe that, a release of Hazardous Material has occurred in, on, under, or about City’s Well Sites. City acknowledges that certain materials as identified on the attached **Exhibit B** (the “Additional Conditions, Procedures, or Criteria to be Observed by Licensee in its Operation of City’s Well Sites”), which may or may not meet the definition of Hazardous Material below, must be used in completion of the Work, and accordingly, the materials may be brought onto City’s Well Sites for such purpose. During all use of the Hazardous Materials, Licensee and its Agents shall comply with all laws, statutes, ordinances, rules, regulations, policies, orders, edicts, and the like (collectively, “**Laws**”) relating to the use of the Hazardous Materials and requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary or desirable to mitigate the release or minimize the spread of contamination. If Licensee or its Agents cause a release of Hazardous Material, Licensee shall promptly return City’s Well Sites to the condition immediately prior to such release without cost to City or the SFPUC, in accordance with all applicable Laws, and

using the highest and best technology available. In connection with any such release, Licensee shall afford City a full opportunity to negotiate and participate in any discussion with governmental agencies and environmental consultants regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise proceeding involving Hazardous Material, and any other abatement or clean-up plan, strategy, or related procedure. For purposes of this License, “**Hazardous Material**” means material that, because of its quantity, concentration, or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state, or local governmental authority to pose a present or potential hazard to public health, welfare, or the environment. Hazardous Material includes the following: any material or substance defined as a “hazardous substance, pollutant or contaminant” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 et seq., or pursuant to Section 25316 of the California Health & Safety Code or any other federal, state, or local Law; and any “hazardous waste” listed pursuant to Section 25140 of the California Health & Safety Code. The term “release” or “threatened release” when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under, or about City’s Well Sites but does not include the routine, authorized use of water treatment chemicals required to conduct the Work.

(d) Use of Adjoining Land. Licensee acknowledges that the privilege given under this License shall be limited strictly to City’s Well Sites. Licensee shall not traverse over or otherwise use any adjoining lands of City.

(e) Signs. Licensee shall not place, erect, or maintain any sign, advertisement, banner, or similar object in, on, or about City’s Well Sites without City’s prior written consent.

5. SURRENDER

Upon the expiration of this License or within ten (10) days after any sooner revocation or other termination of this License, Licensee shall surrender City’s Well Sites in the same condition as received, and broom clean, free from hazards and clear of all debris. Licensee’s obligations under this Section shall survive any termination of this License.

6. INDEMNITY

The indemnity clause in Section 12.2 of the Operating Agreement applies to Licensee’s operation and maintenance activities on City’s Well Sites authorized by this License, and, to the extent applicable, to City’s activities.

7. WORKER’S COMPENSATION INSURANCE

During the Term, Licensee shall maintain the Worker’s Compensation Insurance for its employees conducting the Work, as required by Section 12.4 of the Operating Agreement.

8. NOTICES

Except as otherwise expressly provided in this License, any notices given under this License shall be effective only if in writing and given by delivering the notice in person, by sending it first class mail or certified mail with a return receipt requested, or nationally-recognized overnight courier that guarantees next day delivery and provides a receipt therefor, with postage prepaid, addressed as follows (or such alternative address as may be provided in writing):

To Licensee: Daly City Department of Water and Wastewater Resources
153 Lake Merced Blvd.
Daly City, CA 94015
Attn: Tom Piccolotti, General Manager

with a copy to: City Attorney, City of Daly City
333 90th Street
Daly City, CA 94015
Attn: Rose Zimmerman, City Attorney

To City: Steve Ritchie, Assistant General Manager, Water Enterprise
San Francisco Public Utilities Commission
525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102

With a copy to: San Francisco City Attorney's Office
Attn.: Utilities General Counsel
Room 234 City Hall
1 Carlton B. Goodlett Place
San Francisco, CA 94102

A properly addressed notice transmitted by one of the foregoing methods shall be deemed received upon confirmed delivery, attempted delivery, or rejected delivery. Any facsimile or telephone numbers or e-mail addresses provided by one party to the other are for convenience of communication only; neither party may give official or binding notice by facsimile, telephone or other oral communication, or e-mail. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a faxed or e-mailed copy of a notice or any oral communication.

9. MACBRIDE PRINCIPLES - NORTHERN IRELAND

City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. City also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Licensee acknowledges that it has read and understands the above statement of City concerning doing business in Northern Ireland.

10. TROPICAL HARDWOOD AND VIRGIN REDWOOD BAN

City urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

11. DISCLOSURE

Licensee understands and agrees that City's Sunshine Ordinance (San Francisco Administrative Code Chapter 67) and the State Public Records Law (Gov't Code Sections 6250 et seq.) apply to this License and any and all records, information, and materials submitted to City in connection with this License. Accordingly, any and all such records, information, and materials may be subject to public disclosure in accordance with City's Sunshine Ordinance and the State Public Records Law. Licensee hereby authorizes City to disclose any records, information, and materials submitted to the City in connection with this License.

12. CONFLICT OF INTEREST

Through its execution of this License, Licensee acknowledges that it is familiar with the provisions of **(a)** San Francisco Charter Section 15.103; **(b)** Article III, San Francisco Campaign and Governmental Conduct Code, Chapter 2; and **(c)** California Government Code Sections 87100 et seq. and Sections 1090 et seq. and certifies that it does not know of any facts that would constitute a violation of said provisions. Licensee shall immediately notify City if City becomes aware of any such fact during the term of this License.

13. NOTIFICATION OF LIMITATIONS ON CONTRIBUTIONS

Through its execution of this License, Licensee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with City for the selling or leasing of any land or building to or from City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that City elective officer serves, from making any campaign contribution to **(a)** the City elective officer, **(b)** a candidate for the office held by such individual, or **(c)** a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Licensee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$100,000 or more. Licensee further acknowledges that the prohibition on contributions applies to Licensee; each member of Licensee's governing body, and Licensee's chief executive officers; any person with an ownership interest of more than ten percent (10%) in Licensee; any contractor or subcontractor retained by Licensee to perform Work pursuant to this License; and any committee that is sponsored or controlled by Licensee. Additionally, Licensee acknowledges that Licensee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Licensee further agrees to provide to City the names of each person, entity, or committee described above.

14. NONDISCRIMINATION

In the performance of this License, Licensee shall not discriminate against any employee, subcontractor, applicant for employment with Licensee, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

15. SAN FRANCISCO PACKAGED WATER ORDINANCE

Licensee shall comply with San Francisco Environment Code Chapter 24 ("**Chapter 24**"). Licensee shall not sell, provide, or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this License or on City property unless Licensee obtains a waiver from City's Department of the Environment. If Licensee violates this requirement, City may exercise all remedies in this License and the Director of City's Department of the Environment may impose administrative fines as set forth in Chapter 24.

16. FOOD SERVICE AND PACKAGING WASTE REDUCTION ORDINANCE

Licensee shall comply with and is bound by all of the applicable provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated into this License by reference and made a part of this License as though fully set forth. Accordingly, Licensee acknowledges that City contractors and lessees may not use Food Service Ware for Prepared Food in City Facilities and while performing under a City contract or lease (1) where the Food Service Ware is made, in whole or in part, from Polystyrene Foam, (2) where the Food Service Ware is not Compostable or Recyclable, or (3) where the Food Service Ware is Compostable and not Fluorinated Chemical Free. The capitalized terms (other than Licensee and City) in the previous sentence are defined in San Francisco Environment Code Section 1602.

17. NO ASSIGNMENT

This License is personal to Licensee and shall not be assigned, conveyed, or otherwise transferred by Licensee under any circumstances. Any attempt to assign, convey, or otherwise transfer this License shall be null and void and cause the immediate termination and revocation of this License.

18. SEVERABILITY

If any provision of this License or its application to any person, entity, or circumstance shall be invalid or unenforceable, the remainder of this License, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this License shall be valid and enforceable to the fullest extent permitted by law, except to the extent that enforcement of this License without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this License.

19. COOPERATIVE DRAFTING

This License has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the License reviewed and revised by legal counsel. No party shall be considered the drafter of this License, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this License.

20. RESTRICTIONS ON THE USE OF PESTICIDES

Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or “**IPM Ordinance**”) describes an integrated pest management (“**IPM**”) policy to be implemented by all City departments. Licensee may not use or apply or allow the use or application of any pesticides on City’s Well Sites or contract with any party to provide pest abatement or control services to City’s Well Sites without first receiving City’s written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Licensee may need to apply to City’s Well Sites during the Term, (ii) describes the steps Licensee will take to meet City’s IPM Policy described in Section 300 of the IPM Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Licensee’s primary IPM contact person with City. Licensee will comply, and will require all of Licensee’s contractors to comply, with the IPM plan approved by City and will comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Licensee were a City department. Among other matters, the provisions of the IPM Ordinance: (i) provide for the use of pesticides only as a last resort, (ii) prohibit the use

or application of pesticides on City property, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), **(iii)** impose certain notice requirements, and **(iv)** require Licensee to keep certain records and to report to City all pesticide use at City's Well Sites by Licensee's Agents. If Licensee or Licensee's Agents would apply pesticides to outdoor areas at City's Well Sites, Licensee will first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("CDPR") and the pesticide application will be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, <http://sfenvironment.org/ipm>.

21. GENERAL PROVISIONS

(a) This License may be amended or modified only by a writing signed by Licensee and City. **(b)** No waiver by any party of any of the provisions of this License shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. No waiver shall be deemed a subsequent or continuing waiver of the same, or any other, provision of this License. **(c)** This instrument (including its Recitals and the attached exhibit(s), which are hereby incorporated into and made a part of this License) contains the entire agreement between the parties with respect to the access rights granted by this License and all prior written or oral negotiations, discussions, and understandings are merged in this License. **(d)** The sections and other headings of this License are for convenience of reference only and shall be disregarded in the interpretation of this License. **(e)** Time is of the essence in all matters relating to this License. **(f)** This License shall be governed by California law and City's Charter. **(h)** If either party commences an action against the other or a dispute arises under this License, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes of this License and for purposes of the indemnifications set forth in this License, City's reasonable attorneys' fees shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience notwithstanding City's use of its own attorneys. **(i)** This License may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument. **(j)** Unless otherwise provided in this License, whenever City's consent is required to be obtained by Licensee pursuant to this License, City may give, condition, or withhold such consent at its sole and absolute discretion. **(k)** Use of the word "including" or similar words will not be construed to limit any general term, statement, or other matter in this License, whether or not language of non-limitation, such as "without limitation" or similar words, are used.

[SIGNATURES ON FOLLOWING PAGE]

In witness whereof, City and Licensee have executed this License on the date set forth below, effective as of the Commencement Date.

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a California municipal corporation

By: _____
Dennis Herrera
General Manager,
San Francisco Public Utilities Commission

Dated: _____, 2021

Approved as to form:

DAVID CHIU
City Attorney

By: _____
Shari Geller Diamant
Deputy City Attorney

LICENSEE:

CITY OF DALY CITY,
a California municipal corporation

DocuSigned by:

By: _____
Name: Tom Piccolotti
Dated: 11/12/2021 | 12:08:28 PM PST, 2021

By: _____
Name: _____
Dated: _____, 2021

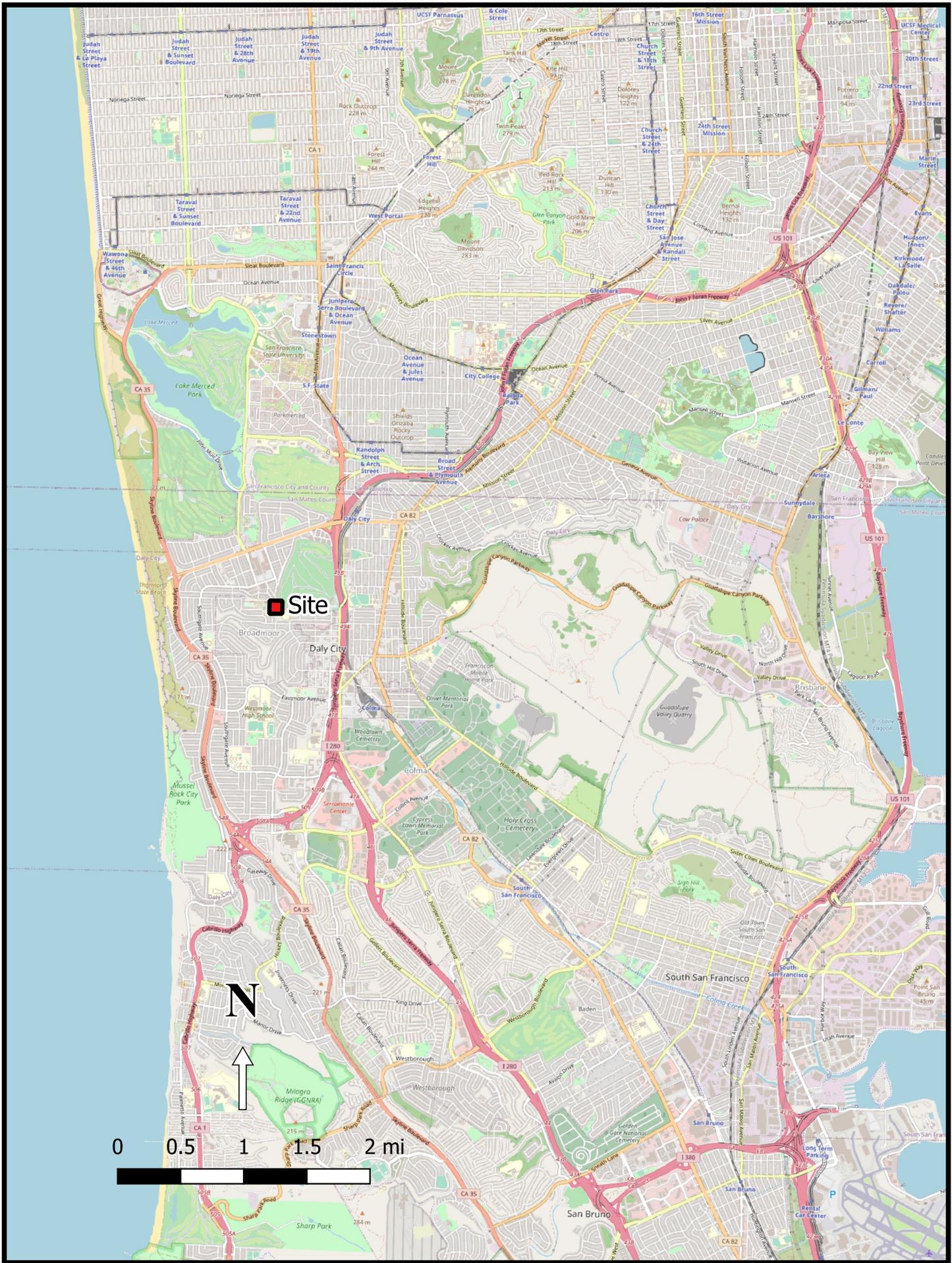
EXHIBIT A

CITY'S WELL SITES

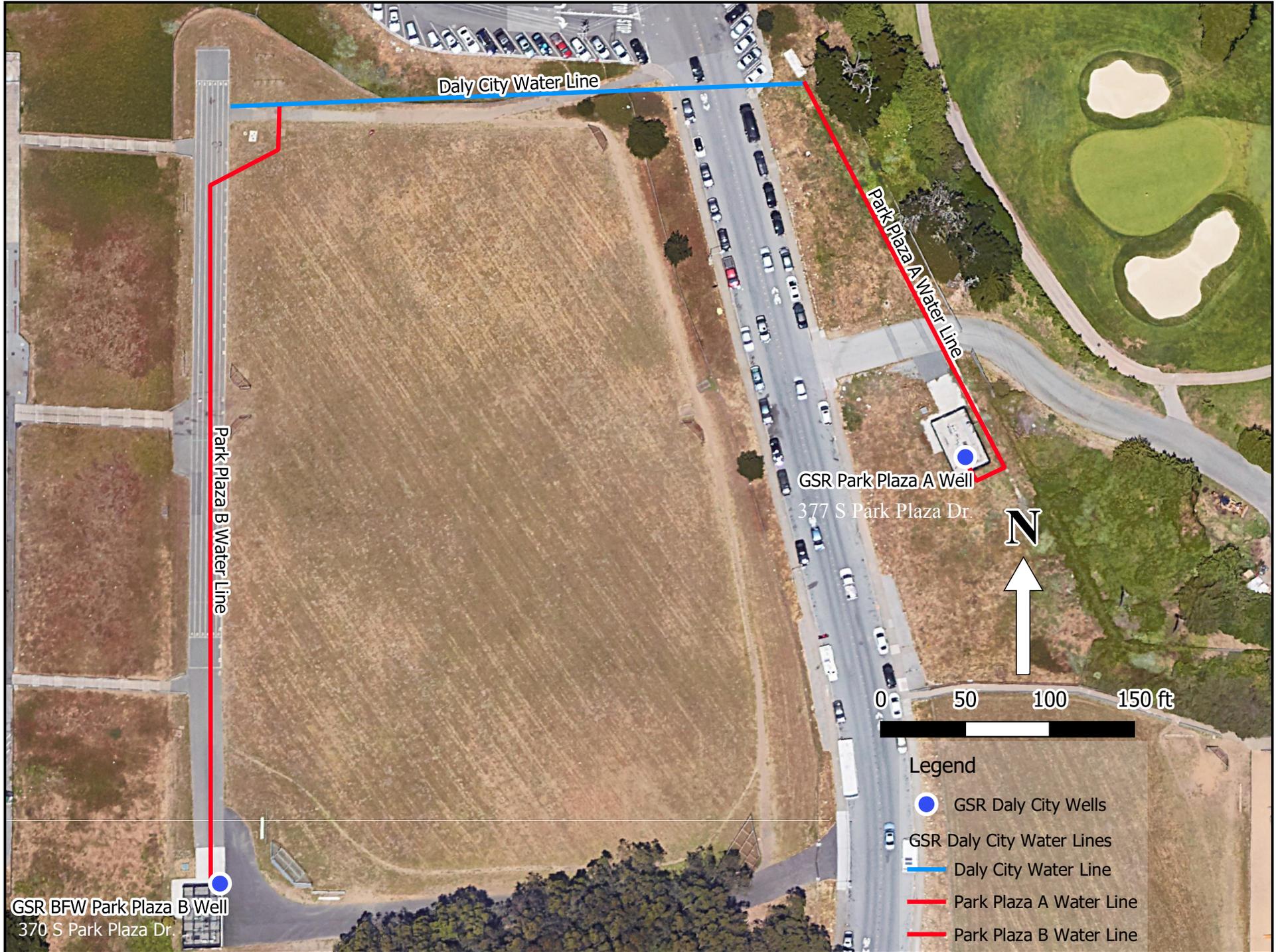
Park Plaza Meter
SFPUC South Park Plaza A Well
377 South Park Plaza Drive
Daly City, CA 94015

Ben Franklin Intermediate School
SFPUC South Park Plaza B Well
370 South Park Plaza Drive
Daly City, CA 94015

Exhibit A Vicinity Map



Park Plaza A and B Wells, Daly City CA.



GSR BFW Park Plaza B Well
370 S Park Plaza Dr.

GSR Park Plaza A Well
377 S Park Plaza Dr.

Legend

- GSR Daly City Wells
- GSR Daly City Water Lines
- Daly City Water Line
- Park Plaza A Water Line
- Park Plaza B Water Line

EXHIBIT B

ADDITIONAL CONDITIONS, PROCEDURES, OR CRITERIA TO BE OBSERVED BY LICENSEE IN ITS OPERATION OF CITY'S WELL SITES

A. Routine Operation and Maintenance Activities that may be conducted by Licensee Without City's Prior Written Consent

1. Activities included within the Operation and Maintenance Plans in Exhibit C.
2. Equipment exercise schedules included in Exhibit C.
3. Leak testing and valve operation for the raw water pipelines shown in red on Exhibit A.

B. Improvements and Non-Routine Operation and Maintenance Activities that Require City's Prior Written Consent in Addition to Activities Specified in Section 4(a) of License Terms. During an emergency, Daly City may perform work on the Park Plaza A and Park Plaza B Water Lines shown on Exhibit A following prompt provision of oral or written notice to the SFPUC contact person in Section 8 of the license.

1. Corrosion testing
2. Building painting, including surface preparation
3. Piping repairs outside the existing well pad
4. Well inspection and rehabilitation
5. Motor refurbishing/ rebuilding
6. Pump pulls, servicing or rebuilding
7. Repairs to motor controls
8. Well pad structural modifications
9. Building structural modifications

EXHIBIT C
CITY WELL SITES OPERATION AND MAINTENANCE PLANS AND EQUIPMENT
EXERCISE SCHEDULES