

MOTION BY SUPERVISOR JANICE HAHN

November 5, 2019

**Ballona Creek Trash Public-Private Partnership**

During storm events, Ballona Creek receives an influx of trash from the urban watershed through a network of storm drains. Ballona Creek also receives plastic waste and other trash from non-point sources. Despite significant reduction in trash over the years due to efforts by upstream municipalities, this Board of Supervisor's (Board) own progressive actions such as banning single use plastic carryout bags, and efforts by the Los Angeles County Flood Control District (District) to implement a "last line of defense" net near the channel outlet, significant amounts of trash continue to reach downstream beaches and the ocean. On March 19, 2019, the Board approved a motion directing Public Works to report back on trash reduction efforts associated with Ballona Creek. In response, on June 17, 2019, Public Works submitted a summary of steps currently being taken by watershed cities to control trash at the source and a report on an evaluation of trash removal options in Ballona Creek. On October 1, 2019, Public Works submitted a multi-year, multi-agency plan to reduce trash and debris littering local

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MOTION

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beaches near the Ballona Creek outlet, including improved coordination among cities in the watershed to reduce trash entering Ballona Creek, solutions for in-channel trash control, a strategy to promote anti-littering behavior, and an assessment of grants and other funding opportunities.

Public Works has been approached by The Ocean Cleanup (TOC), a Dutch non-profit organization that develops advanced technologies to rid the world's oceans of plastic, regarding a possible partnership to address trash in the County's waterways. Based on detailed discussions and a site visit in August 2019, both Public Works and TOC are satisfied that the pilot project between the TOC and the District to deploy one of TOC's Interceptor™ systems should be pursued in Ballona Creek. Public Works and TOC propose that the term of the pilot project be up to 24 months and that based on the results of the pilot project, the District have the option to acquire ownership of the Interceptor™ gratis at the end of the pilot project term. TOC and the Public Works have prepared a draft agreement to memorialize the terms and conditions of the partnership and pilot project. The pilot project would not affect other ongoing efforts by the District to implement short- and long-term control measures described in the October 1 report.

Pursuant to an analysis by Public Works and having undertaken the requisite consideration of environmental factors, the partnership agreement and the pilot project are exempt from the California Environmental Quality Act (CEQA) pursuant to sections 15262 of the State CEQA Guidelines and section 21102 of the California Public Resources Code, as these actions relate to planning and feasibility studies for possible future actions that the Board has not adopted, approved, or funded, and also pursuant to section 15306 of the State CEQA Guidelines as these actions relate to information

gathering including basic data collection and resource evaluation activities that do not result in a serious disturbance to an environmental resource.

**I, THEREFORE, MOVE** that the Board of Supervisors:

1. Find that the partnership agreement and pilot project are statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to section 21102 of the California Public Resources Code, and Section 15262 of the State CEQA Guidelines and categorically exempt pursuant to Section 15306 of the State CEQA Guidelines; and
2. Authorize Public Works to negotiate and enter into an agreement with The Ocean Cleanup or one of its affiliate companies to establish a partnership to implement a pilot project to test the efficiency of the Interceptor<sup>TM</sup> system in capturing floating plastics and other trash in Ballona Creek, substantially similar to the attached draft agreement.

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JH:jw

AGREEMENT  
REGARDING A PILOT PROJECT TO IMPLEMENT A TRASH CLEAN UP SYSTEM  
IN BALLONA CREEK

The Ocean Cleanup Interception B.V., a Dutch private company with limited liability ("Grantor") and the Los Angeles County Flood Control District ("District"), a body corporate and politic, hereinafter referred to as the "Signatories", have entered into this AGREEMENT REGARDING A PILOT PROJECT TO IMPLEMENT A TRASH CLEAN UP SYSTEM IN BALLONA CREEK (this "Agreement") as of the \_\_\_\_ day of \_\_\_\_\_, 2019.

Considering

- A. District operates and maintains segments of the Ballona Creek, a flood control channel located in Los Angeles County (California) that conveys stormwater runoff from an approximately 130 square mile urban watershed that includes all or parts of the Cities of Beverly Hills, Culver City, Inglewood, Los Angeles, Santa Monica, West Hollywood, and unincorporated Los Angeles County, to the Santa Monica Bay;
- B. During storm events, Ballona Creek receives an influx of plastic waste and other trash from the watershed through a network of storm drains;
- C. Ballona Creek also receives plastic waste and other trash from non-point sources;
- D. District is exploring various possible strategies to reduce the impact of plastics and other trash discharged to Ballona Creek and Santa Monica Bay;
- E. Grantor's affiliate is a not-for-profit organization that develops advanced technologies to rid the world's oceans of plastic;
- F. Grantor's affiliate has developed a technologically advanced river clean-up system (the "Interceptor") which removes floating and suspended waste from the top layer of rivers;
- G. The Signatories intend that the Interceptor will be installed by the District at the location shown on Exhibit A (the "Site");
- H. Grantor wishes to make an Interceptor available to District, so District can operate and test the Interceptor as a possible strategy to address the plastic waste affecting Ballona Creek and Santa Monica Bay;
- I. The Signatories are desirous of entering into this Agreement to memorialize their respective commitments and to establish a basis for co-operation and collaboration between them upon the terms as contained herein.

In consideration of good and valuable consideration, the Signatories hereby agree as follows:

SECTION 1: Objective

- 1.1 Grantor and District will cooperate to implement a pilot project regarding river plastic research and river plastic interception using the Interceptor in Ballona Creek for a pilot period of up to 24 months (the "Term") covering two storm seasons (October 1 to April 30). The Term shall commence when Grantor notifies the District that the Interceptor has been assembled and delivered to the Site, and shall expire on April 30 of the second storm season that commences after the Term commences. The

applicable provisions of this Agreement shall be given effect before, during and after the Term, as the context requires.

- 1.2 Grantor and District will collaborate with each other, and with any research partners mutually agreed to by both Signatories, to develop and improve methods to measure and monitor river plastic waste, research the quantity and quality of plastic waste in Ballona Creek, and identify other potential river plastic hotspots appropriate for plastic waste interception.
- 1.3 Grantor and District will discuss and determine minimum performance criteria, attached hereto as Exhibit B,<sup>1</sup> (the "**Minimum Performance Criteria**") for the Interceptor to serve as a suitable solution to intercept river plastic waste in Ballona Creek. Notwithstanding the foregoing, Grantor shall be deemed to be in compliance with the Minimum Performance Criteria during any period of time in which the Minimum Performance Criteria is not satisfied because of force majeure or because the District failed to comply with its obligations under this Agreement.

## SECTION 2: Use of Interceptor

Grantor hereby authorizes the District to use, operate and maintain the Interceptor, for the Term and upon the terms and conditions hereinafter set forth.

## SECTION 3: Obligations of the Signatories Regarding Pilot Project

- 3.1 Grantor shall:
  - a. [Additional terms and conditions pertaining to the provision of information by Grantor regarding the design of the Interceptor prior to delivery of the Interceptor to the Site shall be subject to further negotiation between Grantor and the District].
  - b. Assemble one Interceptor at a location separate from the Site (the "Assembly Location"), deliver such assembled Interceptor to the Site and authorize the use of such Interceptor by District, subject to this Section 3, for the Term. The Grantor shall secure the use of a suitable Assembly Location. The tentative Term commencement date is September 1, 2020, but the failure of the Term to commence by such date shall not affect the respective obligations of the Signatories;
  - c. [Additional terms and conditions pertaining to the Grantor's review and approval of design plans prepared by District related to the installation of the Interceptor at the Site shall be subject to further negotiation between Grantor and the District].
  - d. Make monitoring equipment (cameras) available to District, or a mutually acceptable research partner, to monitor and quantify river plastic in Ballona Creek for the Term of the pilot project;

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<sup>1</sup> NTD: DPW is considering whether performance criteria regarding the operation and maintenance burden on DPW along with environmental impacts is necessary, and if so, DPW will prepare additional language for Exhibit B.

- e. Provide assistance to District in obtaining necessary permits for deployment and operation of the Interceptor;
- f. Consult with and advise District in connection with the installation, deployment, operation and maintenance of the Interceptor by District;
- g. [Additional terms and conditions pertaining to the provision of information by Grantor regarding the operation and maintenance activities related to the Interceptor prior to delivery of the Interceptor to the Site, shall be subject to further negotiation between Grantor and the District].
- h. [Additional terms and conditions pertaining to the placement of County of Los Angeles and District logos on the Interceptor shall be subject to further negotiation between Grantor and the District].

### 3.2 District shall:

- a. [Additional terms and conditions pertaining to the review of information by District regarding the design of the Interceptor prior to delivery of the Interceptor to the Site shall be subject to further negotiation between Grantor and the District].
- b. Coordinate various public and private organizations required to be involved in the pilot project;
- c. Provide assistance to Grantor in finding a suitable Assembly Location. District understands that the Assembly Location should be at least 8,000 square feet in area, have an appropriate shape for the assembly of the Interceptor, have appropriate access to the Pacific Ocean and be located within 2 miles of the Site;
- d. Prepare design plans related to the installation of the Interceptor and the barriers to be moored on the creek banks by use of concrete anchor blocks, share those design plans with Grantor and incorporate all comments provided by Grantor regarding those design plans;
- e. Install the Interceptor in accordance with the plans and Grantor's instructions promptly after the commencement of the Term;
- f. [Additional terms and conditions pertaining to the review of information by District regarding the operation and maintenance of the Interceptor prior to delivery of the Interceptor to the Site shall be subject to further negotiation between Grantor and the District].
- g. [Additional terms and conditions pertaining to the scope of the District's obligations to operate and maintain the Interceptor shall be subject to further negotiation between Grantor and the District].
- h. Comply with all rules and regulations, such as waterway registration, permits and other documentation needed to install and operate the Interceptor;
- i. Monitor and quantify river plastic in Ballona Creek and provide the data thereof to the Grantor;
- j. Collect the data necessary to measure performance against the agreed criteria and provide this data to Grantor; and
- k. Subject to the success of the pilot, cooperate in sharing the results of the pilot project with interested stakeholders and the public.

#### SECTION 4: Transfer Interceptor

- 4.1 At the end of the Term, Grantor shall transfer ownership of the Interceptor to District, and District shall accept title to the Interceptor by means of a Bill of Sale, free of charge, but only if:
- a. Unless Grantor waives this condition, District has complied with its commitments under the Agreement and ensured that the Interceptor was operated in accordance with the Operations and Maintenance (O&M) Manual and that extracted waste was collected, sorted and treated in accordance with the current standards in the County of Los Angeles or an alternate, more sustainable manner as may be agreed to by the Signatories; and
  - b. District and Grantor have each reasonably confirmed that the Interceptor has met the minimum performance criteria [as jointly determined].

For clarity, any transfer of title to the Interceptor from Grantor to District shall not be construed to be a transfer of title to any patent, copyright, proprietary right or confidential know how, trademark or process covering the Interceptor (which, other than the non-exclusive license granted in Section 9.4, is hereby expressly retained by Grantor).

- 4.2 In the event that the conditions set out above have not been met, Grantor will retain ownership of the Interceptor and shall take back possession of the Interceptor and remove the Interceptor from Ballona Creek to a destination of its choice within 5 months after the end of the Term.
- 4.3 Except as expressly set forth in this Agreement, this Agreement does not constitute or evidence an approval by District of, or commitment of District to, any action beyond the Term, including the potential continued operation of the Interceptor, for which further environmental review may be required under the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) ("CEQA").

#### SECTION 5: Financial Arrangements

- 5.1 Except as expressly provided herein, including, without limitation, Section 12, this Agreement will not give rise to any financial obligation by one Signatory to the other.
- 5.2 Each Signatory will bear its own costs and expenses in relation to this Agreement, except as set forth in Section 12.

#### SECTION 6: No Agency

Nothing contained herein is to be construed as to constitute a joint venture, partnership or formal business organization of any kind between the Signatories or so to constitute either Signatory as the agent of the other.

## SECTION 7: NOTICES

Any communication under this Agreement will be in writing in the English language and delivered by registered mail to the address or sent to the electronic mail address of Grantor or District, as the case may be, shown below or to such other address or electronic mail address as either Signatory may have notified the sender in writing and shall, unless otherwise provided herein, be deemed to be duly given or made when delivered to the recipient at such address or electronic mail address which is duly acknowledged; but only if, in the case of electronic mail, the sender also sends such notice to the recipient's address shown below by registered mail no later than the end of the first business day after such notice is sent by electronic mail:

**District:** Mr. Keith Lilley  
Assistant Deputy Director  
Los Angeles County Flood Control District  
County of Los Angeles Public Works, Stormwater Planning Division  
P.O. Box 1460  
Alhambra, California 91802-1460  
[KLILLEY@pw.lacounty.gov](mailto:KLILLEY@pw.lacounty.gov)

With copies to:

Mr. Steven Sheridan, Assistant Deputy Director (same mailing address as above) - [SSHERRIDA@dpw.lacounty.gov](mailto:SSHERRIDA@dpw.lacounty.gov)

Mr. Frank Wu, Senior Civil Engineer (same mailing address as above) - [FWU@pw.lacounty.gov](mailto:FWU@pw.lacounty.gov)

Mr. Cung Nguyen, Senior Civil Engineer (same mailing address as above) - [CUNGUYEN@pw.lacounty.gov](mailto:CUNGUYEN@pw.lacounty.gov)

**Grantor:** Chris Worp  
Managing Director  
Batavierenstraat 15, 4-7th floor, 3014 JH Rotterdam, The Netherlands  
[Chris.worp@theoceancleanup.com](mailto:Chris.worp@theoceancleanup.com)

With copies to:

Rutger de Witt Winjen, General Counsel (same mailing address as above) –  
[Rutger.dewittwijnen@theoceancleanup.com](mailto:Rutger.dewittwijnen@theoceancleanup.com)

## SECTION 8: CONFIDENTIALITY

8.1 Both Signatories agree that the provisions of this Section shall continue to be binding between the Signatories notwithstanding the termination of this Agreement.

8.2 Any information of a confidential or proprietary nature disclosed by a Signatory to the other Signatory which is clearly marked as "Confidential" shall be treated as confidential information of the disclosing Signatory to the fullest extent possible as provided by law, and shall not be disclosed to any third party or used outside the scope of the purpose set out in Section 1 without prior consent from the disclosing Signatory, except as required by the California Public Records Act or other provision of law (collectively, "Disclosure Law"). If the District receives any request or demand that the



District disclose any such information under Disclosure Law, then District shall immediately notify Grantor thereof, and District shall reasonably cooperate with Grantor's reasonable efforts to avoid such disclosure under Disclosure Law. Thirty (30) days after completion of the collaboration, all confidential information shall be returned to the disclosing Signatory; provided however that in the event Grantor transfers ownership of the Interceptor to District at the end of the Term, pursuant to Section 4, District shall be entitled to retain any confidential information it has received from Grantor relating to the operation of the Interceptor. The confidentiality obligation under this Section shall remain in force for 5 years after the date the relevant confidential information was shared.

#### SECTION 9: Intellectual Property

- 9.1 Ownership. Except for the limited non-exclusive license expressly granted in Section 9.4 below, Grantor hereby retains all right, title, and interest and all intellectual property rights in and to the Interceptor, and any and all hardware, components, prototypes, documentation, designs, specifications, instructions, methods of operations, results of operations, analytics, Feedback (as defined below) and improvements, upgrades and modifications related thereto (altogether, the "Grantor Rights"). To the extent that District has or obtains any right, title, or interest in or to any of the Grantor Rights, District hereby assigns to Grantor all right, title, and interest, including all related intellectual property rights, in and to such Grantor Rights.
- 9.2 No Reverse Engineering; No transfer. District agrees not to (i) attempt to reverse engineer, modify, duplicate or fabricate any parts for the Interceptor or (ii) dispose of, sell, loan, lease, rent or transfer the Interceptor, without the prior written consent of Grantor.
- 9.3 Testing and Evaluation. During the Term District will: (i) test and evaluate the Interceptor and its operation, features, capabilities and performance, (ii) comply with the reasonable requests of Grantor from time to time regarding such testing, and (iii) provide evaluation information (including, but not limited to, test results) and report or otherwise disclose orally or in writing problems, defects or suggestions for changes and improvements to the Interceptor which District becomes aware of (collectively, "Feedback").
- 9.4 Limited License. Grantor hereby grants to the District a non-exclusive, non-sublicensable, and non-transferable license, under the Grantor Rights, to operate the Interceptor solely in accordance with the O&M Manual and solely during the Term, and if District acquires title to the Interceptor, thereafter.

#### SECTION 10: Suspension

Each Signatory reserves the right for reasons of national security, national interest, public order, reputational risk or public health to suspend temporarily, either in whole or in part, the implementation of this Agreement which suspension shall take effect immediately after notification in writing has been given to the other Signatory.

#### SECTION 11: As-Is Lease; No Warranties.

11.1 District acknowledges and agrees that **IT ACCEPTS THE USE OF THE INTERCEPTOR AND, IF THE CONDITIONS OF SECTION 4.1 ARE MET, DISTRICT SHALL ACCEPT THE OWNERSHIP OF THE INTERCEPTOR IN ITS "AS-IS, WITH ALL FAULTS" CONDITION AND STATE OF REPAIR INCLUSIVE OF ALL FAULTS AND DEFECTS, WHETHER KNOWN OR UNKNOWN, AS MAY EXIST AS OF DISTRICT'S EXECUTION OF THIS AGREEMENT, THE COMMENCEMENT OF THE TERM OR THE TRANSFER OF TITLE TO THE INTERCEPTOR, AS APPLICABLE.** Without limiting the scope or generality of the foregoing, District expressly assumes the risk that the Interceptor does not or will not comply with any laws now or hereafter in effect.

11.2 AS OF THE DATE OF THE EXECUTION OF THIS AGREEMENT AND THE DATE OF THE TRANSFER OF OWNERSHIP OF THE INTERCEPTOR (PURSUANT TO SECTION 4, IF APPLICABLE) GRANTOR DOES NOT AND WILL NOT MAKE AND EXPRESSLY DISCLAIMS ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, OF FITNESS OF THE INTERCEPTOR FOR A PARTICULAR PURPOSE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTY OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE OR USE, COURSE OF DEALING OR USAGE OF TRADE.

11.3 Notwithstanding the foregoing, nothing in this Section 11 shall be deemed to affect Grantor's obligations, described in Section 3, to repair or replace the Interceptor.

#### SECTION 12: Indemnity

12.1 District hereby indemnifies and shall defend Grantor, at District's sole cost and expense and with counsel reasonably selected by Grantor, and hold Grantor and its officers, directors employees, partners, affiliates, agents, contractors, successors and assigns ("Grantor Parties") harmless from any and all claims (including claims under negligence and strict liability), demands, liability, losses, causes of actions and suits of any kind, proceedings, orders, judgments, and any costs, damages (of all kinds including punitive damage, diminution in value and loss of use), claims, liabilities, expenses (including reasonable attorneys', consultants' and experts' fees), losses, fines, natural resource damages, penalties and court costs related to the subject matter of such costs and amounts paid in settlement of any claims or actions related to the subject matter of such costs (collectively, "Losses") arising directly or indirectly out of (i) any negligent act or omission or willful misconduct by District or its representatives, officers, directors, employees, partners, affiliates, agents, contractors, consultants, invitees, licensee, tenants, successors and assigns ("District Parties") in the performance of District's obligations under this Agreement or any breach by District or any District Party of said obligations; (ii) the California Prevailing Wage Law, including Labor Code Sections 1720 through 1861, et seq.; (iii) any claims relating to CEQA; (v) any violations of law by District or any District Party; (iv) any actual or alleged release of, or impact to the environment from the release of, hazardous substances or hazardous materials by District or any District Party; (v) any property, sales or use taxes arising under this Agreement or with respect to the Interceptor or (vi) in the event Grantor transfers ownership of the Interceptor to District at the end of the Term, pursuant to Section 4, the possession, use or operation of the Interceptor by District or any District Party after the expiration of the Term, except, in each case, to the extent and proportion that the claim or litigation arises through the negligence or willful misconduct of Grantor.

12.2 Grantor hereby indemnifies and shall defend District, at Grantor's sole cost and expense and with counsel reasonably selected by District, and hold District Parties harmless from any and all Losses arising directly or indirectly out of (i) any negligent act or omission or willful misconduct by Grantor or Grantor Parties in the performance of Grantor's obligations under this Agreement or any breach by Grantor or any Grantor Party of said obligations; (ii) any violations of law by Grantor or any Grantor Party; (iii) any actual or alleged release of, or impact to the environment from the release of, hazardous substances or hazardous materials by Grantor or any Grantor Party; or (iv) in the event Grantor does not transfer ownership of the Interceptor to District at the end of the Term pursuant to Section 4, the possession, use or operation of the Interceptor by Grantor or any Grantor Party after the Term, except, in each case, to the extent and proportion that the claim or litigation arises through the negligence or willful misconduct of District.

SECTION 13: Limitation on Liability; Exculpation

13.1 IN NO EVENT SHALL EITHER SIGNATORY BE RESPONSIBLE UNDER ANY PROVISION OF THIS AGREEMENT OR OTHERWISE WITH RESPECT TO THE INTERCEPTOR, FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, ANTICIPATED OR LOST PROFITS, LOSS OF TIME, OR OTHER SIMILAR LOSSES OF ANY KIND INCURRED BY THE OTHER SIGNATORY OR ANY THIRD PARTY IN CONNECTION WITH SUCH SIGNATORY OR THIRD PARTY'S PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT, EVEN IF SUCH SIGNATORY OR THIRD PARTY IS AWARE OF THE POSSIBILITY OF SUCH INCIDENTAL OR CONSEQUENTIAL DAMAGES, ANTICIPATED OR LOST PROFITS, LOSS OF TIME, OR OTHER SIMILAR LOSSES OF ANY KIND.

13.2 GRANTOR'S ENTIRE AND AGGREGATE LIABILITY FOR ALL CLAIMS MADE BY DISTRICT ARISING FROM THIS AGREEMENT SHALL NOT EXCEED \$1,000,000.

13.3 Except for claims described in Section 12.2, District, on its behalf and on behalf of all District Parties, to the fullest extent permitted by law, waives all claims (in law, equity, or otherwise) against Grantor Parties arising out of, knowingly and voluntarily assumes the risk of, and agrees that Grantor Parties shall not be liable to District Parties for any liability for (a) injury to or death of any person; or (b) loss of, injury or damage to, or destruction of any tangible or intangible property or natural resource damages, including the resulting loss of use, economic losses, and consequential or resulting damage of any kind from any cause, in each case regardless of whether such liability results from any negligence of any of the Grantor Parties. This exculpation clause shall not apply to claims against Grantor Parties to the extent caused by Grantor Parties' gross negligence or willful misconduct. The clauses of this Section 13.3 shall survive the expiration or earlier termination of this Agreement until all claims within the scope of this Section are fully, finally, and absolutely barred by the applicable statutes of limitations.

With respect to the exculpation provided in this Section 13.3, District waives the benefits of California Civil Code §1542, which provides:

*A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known*

*by him or her, would have materially affected his or her settlement with the debtor or released party.*

#### SECTION 14: Arbitration

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

#### SECTION 15: Miscellaneous

- 15.1 Signatories will cooperate in good faith taking into account each other's reasonable interests and they will do nothing that could, directly or indirectly, damage the good reputation of the other Signatory.
- 15.2 Any external communication regarding their collaboration or the use of each Signatory's name or trademarks require the prior written consent of the other Signatory.
- 15.3 Signatories agree that the Agreement shall be governed by the laws of the State of California.
- 15.4 Grantor shall remain the owner of all trademarks, copyrights and patents in respect of the Interceptor.
- 15.5 If either Signatory undertakes litigation or arbitration against the other Signatory arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorney fees, arbitration costs, and court costs incurred. The prevailing party shall be determined under California Civil Code §1717(b)(1) or any successor statute.
- 15.6 This Agreement, including all Exhibits attached hereto, constitutes the complete agreement between the Parties as of the date of this Agreement, and supersedes any and all agreements made or dated prior thereto between the Signatories and/or their affiliates relating to the subject matter hereof.
- 15.7 No change, amendment or modification of this Agreement shall be valid or binding upon the Signatories unless such change, amendment or modification shall be in writing and duly executed by each Signatory.
- 15.8 The Signatories acknowledge that this Agreement has been agreed to by both Signatories, that both Grantor and District have consulted with attorneys with respect to the terms of this Agreement and that no presumption shall be created against the drafting party. Any deletion of language from this Agreement prior to its execution by Grantor and District shall not be construed to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse of the deleted language. Unless otherwise specified in this Agreement, any approval or consent to be given by either Signatory may be given or withheld in such Signatory's sole and absolute discretion.

15.9 There are no third party beneficiaries of this Agreement.

15.10 Grantor shall have the right to assign Grantor's right, title and interest in and to this Agreement to an affiliate of Grantor at any time during the Term.

SECTION 16: Term of Agreement

16.1 This Agreement will come into effect on the date of signing and will remain in effect until either (a) the transfer of title to the Interceptor to District pursuant to Section 4.1 or (b) the removal of the Interceptor from Ballona Creek by Grantor pursuant to Section 4.2, as applicable.

16.2 This Agreement may be extended for a further period as may be agreed in writing by the Signatories.

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IN WITNESS WHEREOF, each Signatory hereto has caused this Agreement regarding a pilot project to implement a trash clean up system in Ballona Creek to be executed by their respective officers, duly authorized, on the respective dates indicated below.

LOS ANGELES COUNTY FLOOD CONTROL  
DISTRICT,  
A body corporate and politic

By \_\_\_\_\_ Date \_\_\_\_\_  
Chief Engineer

APPROVED AS TO FORM:

MARY C. WICKHAM  
County Counsel

By \_\_\_\_\_  
Deputy

THE OCEAN CLEANUP INTERCEPTION B.V.

By: \_\_\_\_\_  
Boyán Slat  
Director

Exhibit A





Exhibit B

Minimum Performance Criteria

[Minimum performance criteria shall be subject to further negotiation between Grantor and the District].