

RESOLUTION NO. 02-28-2023

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MALAGA COUNTY WATER DISTRICT APPROVING THE FIRST AMENDMENT TO A RIGHT-OF-WAY AGREEMENT ENTERED INTO IN 2017, A NEW RIGHT-OF-WAY AGREEMENT FOR AN EASEMENT DEED RELATED TO THE CONSTRUCTION OF AN OVERPASS ON CENTRAL AVENUE, THE UNDERGROUNDING OF PG&E UTILITIES, AND ACCESS TO THE PG&E FACILITIES AND EASEMENT

WHEREAS, in 2017, the Malaga County Water District (“District”) and the California High Speed Rail Authority (“Authority”) entered into an agreement and right of way agreement where the Authority would acquire certain property for the construction of an overpass on Central Avenue and an easement for the undergrounding of PG&E powerlines along the southern boundary of the District’s waste-water treatment facility property; and

WHEREAS, these agreements and easement also allowed the Authority and PG&E access to the easement by giving the District forty-eight (48) hours’ notice of their need to enter the Districts property to access the easement; and

WHEREAS, the agreements also provided the District with certain compensation for the property and easements acquired by the Authority and compensation to the District for the installation of a temporary construction fence and replacement of the existing chain link fence on the southern boundary of the District’s property; and

WHEREAS, the parties desire to amend the existing agreements to remove the requirement that the District erect a temporary fence during the construction of the Authorities overpass, provide exclusive access to the easement for PG&E, and to compensate the District for the construction of a driveway, gate, and other facilities to allow PG&E such access; and

WHEREAS, to accomplish their goals, the parties have negotiated an amendment to the prior right-of-way agreement (“First Amendment”) which eliminates the requirement that the District erect temporary fencing during the Authority’s construction of the overpass and crediting the Authority with six thousand nine hundred and ninety-five dollars (\$6,995.) paid to the District as a cost to cure for the temporary fence; and

WHEREAS, the parties have negotiated a new right-of-way Agreement (“New ROW Agreement”) for the issuance of a new easement, in a form acceptable to Pacific Gas & Electric (“PG&E”) to the Authority so that the Authority or its Contractor, may underground PG&E’s utilities and have exclusive access through a gate and other improvements which will be

constructed by the District, which the Authority will grant or transfer to PG&E upon completion of the undergrounding of the utilities; and

WHEREAS, the new ROW Agreement also compensates the District for the construction of the new gate and other facilities in the amount of One hundred ninety-three thousand one hundred seven eight dollars (\$193,198.) (including \$6,995. credit for the temporary fence).

NOW THEREFORE, BE IT RESOLVED, by the Board of Directors of the Malaga County Water District as follows:

1. That the forgoing recitals are true and correct and incorporated by this reference herein as though fully set forth at this point.

2. The Board of Directors of the Malaga County Water District hereby authorizes President of the Board of Directors to sign the Amendment to the original Right-of-Way Agreement, attached hereto and incorporated herein by this reference as Attachment A; the New Right-of Way Agreement attached hereto and incorporated herein by this reference as Attachment B; and the Easement Deed attached hereto and incorporated herein by this reference as Attachment C, on behalf of the District.

Passed and adopted by the Board of Directors of the Malaga County Water District at their meeting held on this 28th day of February 2023, by the following vote:

AYES:

NOES:

ABSENT:

Charles Garabedian, Jr., President
Malaga County Water District

ATTEST:

Moises Ortiz, General Manager
Secretary of the Board of Directors
Malaga County Water District