

LEASE

35375

This Lease is made as of May 1, 2019, by and between the CITY OF LONG BEACH, a municipal corporation ("Lessor" or "City"), pursuant to a minute order adopted by the Long Beach City Council on April 23, 2019, and the SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, a California public agency ("Lessee").

1. RECITALS. This Lease is made with reference to the following:

A. Lessor and Lessee have previously executed that certain Right-of-Entry Permit dated as of March 15, 2018 (City Contract P-00179 / SCAQMD Contract C18244) (the "Permit"), the term of which has expired.

B. Lessor and Lessee have negotiated the terms and conditions of this Lease, intending to replace and extend Lessee's tenancy under the Permit.

2. PREMISES. Lessor leases to Lessee and Lessee leases from Lessor real property located in the City of Long Beach, County of Los Angeles, State of California, consisting of approximately 8,717 square feet and comprising a portion of APN 7216-013-911 located immediately north of that property commonly known as Chittick Field, and as more particularly shown on Exhibit "A" ("Premises"), upon the terms and conditions expressed herein. Exhibit "A" is by this reference made a part hereof.

3. TERM. The term of this Lease shall be five (5) years commencing on March 16, 2019 and ending at midnight on March 15, 2024 ("Term"). This Lease is revocable by either party for any reason upon ninety (90) days' written notice to the other party. Upon termination of this Lease, Lessee shall quit and surrender possession of the Premises and remove all improvements and personal property therefrom.

4. USES. Lessee shall use the Premises for the express purpose of installing and operating a full air-quality monitoring site, including without limitation the operation of criteria pollutant monitors, in connection with Lessee's South Coast Air Basin Study. Lessee shall not use the Premises for any other purpose other than as described in this Section. Lessee shall not store vehicles or other personal property at the

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 Premises which are not necessary to the South Coast Air Basin Study. Lessee shall not
2 bring any hazardous materials upon the Premises. Lessor reserves the right to access
3 the Premises upon reasonable advance notice to Lessee, or without notice in the case of
4 emergency.

5 5. RENT. Lessee shall pay to Lessor monthly rent in the amount of
6 One Thousand One Hundred Seventy Dollars (\$1,170) due on the 1st of each month,
7 pro-rated daily for any partial months. Rent payments shall be delivered on the first day
8 of each month to Department of Parks, Recreation & Marine, 2760 N. Studebaker Road,
9 Long Beach, CA 90815-1697. The designated place of payment and filing may be
10 changed at any time by Lessor upon written notice to Lessee. Rentals may be paid by
11 check made payable to the City of Long Beach. Rent not paid on or before the date
12 which is five (5) days after the due date shall bear interest at the rate of 10% per annum
13 from the date due until paid.

14 6. NOTICE. Any notice, demand, request, consent, approval or
15 communication that either party desires or is required to give to the other party or any
16 other person shall be in writing and either served personally or sent by prepaid, first class
17 mail. Any notice, demand, request, consent, approval or communication that either party
18 desires or is required to give to the other party shall be addressed to the other party at
19 the address set forth below:

20	TO: Lessor	TO: Lessee
21	City of Long Beach	SCAQMD
22	Attention: City Manager	21865 Copley Drive
23	411 W. Ocean Blvd.	Diamond Bar, CA 91765
	Long Beach, CA 90802	Attn: Rene Bermudez

24 Either party may change its address by notifying the other party of the
25 change of address. Notice shall be deemed communicated within forty-eight (48) hours
26 from the time of mailing, if mailed as provided in this paragraph.

27 7. UTILITIES. Lessee shall make all arrangements for, and pay for, all
28 water, electric, refuse and other utility services to the Premises.

1 8. SIGNS. Lessee shall not place or install on the exterior of the
2 Premises any sign advertising its business.

3 9. MAINTENANCE AND IMPROVEMENTS. Any improvements
4 necessary for Lessee's use of the Premises shall be temporary in nature, installed solely
5 at Lessee's expense, and shall be removed upon termination of this Lease (unless
6 directed otherwise by City in its sole and absolute discretion). Lessee shall install (if
7 necessary) and maintain a perimeter fence around the Premises (screened or
8 constructed with slats) and shall promptly remove and dispose of graffiti and illegally
9 dumped materials at the Premises. Lessee shall, to the satisfaction of Lessor, keep and
10 maintain the entire Premises in good condition free of debris and rubbish and in
11 substantial repair as acceptable to Lessor. Lessee has occupied the Premises
12 immediately prior to the Term and accepts same in an "AS IS" condition, with all faults,
13 and City makes no warranty or representation whatsoever with respect to the Premises,
14 including without limitation as to suitability for Lessee's proposed use.

15 10. INSURANCE. Lessee shall procure and maintain the following
16 insurance at Lessee's sole expense for the duration of this Lease, including any
17 extensions, renewals, or holding over thereof, from insurance companies that are
18 admitted to write insurance in the State of California or from non-admitted insurers that
19 are on California's List of Eligible Surplus Lines Insurers (LESLI) and that have ratings of
20 or equivalent to an A:VIII by A.M. Best Company:

21 a. Commercial general liability insurance equivalent in coverage scope
22 to ISO form CG 00 01 11 85 or 10 93 in an amount not less than One Million Dollars
23 (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate.
24 Such coverage shall include but is not limited to broad form contractual liability, cross
25 liability protection, products and completed operations liability, and garage-keepers legal
26 liability. The City of Long Beach, and its boards, officials, employees, and agents shall
27 be added as additional insureds by endorsement (equivalent in coverage scope to ISO
28 form CG 20 26 11 85) and this coverage shall contain no special limitations on the scope

1 of protection afforded to City, and its boards, officials, employees, and agents.

2 b. Workers' compensation insurance as required by the California
3 Labor Code and Employer's Liability insurance in an amount not less than One Million
4 Dollars (\$1,000,000) per accident or occupational illness.

5 c. Any self-insurance program, self-insured retention or deductible must
6 be approved separately in writing by the City Risk Manager or designee and shall protect
7 City, and its boards, officials, employees, and agents in the same manner and to the
8 same extent as they would have been protected had the policy or policies not contained
9 such self-insurance or deductible provisions.

10 d. Each insurance required hereunder shall be endorsed to provide that
11 coverage shall not be canceled, nonrenewed, or materially changed in coverage or limits
12 (other than by reduction of limits by payment of claims) except after thirty (30) days prior
13 written notice to City, and that coverage shall be primary and not contributing to any other
14 insurance or self-insurance maintained by City, or its boards, employees, or agents.

15 e. Prior to the commencement of this Lease, Lessee shall deliver to
16 Lessor certificates of insurance and the endorsements required hereunder for approval
17 as to sufficiency and form. The certificates and endorsements for each insurance policy
18 shall contain the signature of a person authorized by that insurer to bind coverage on its
19 behalf. In addition, Lessee shall, at least thirty (30) days prior to expiration of such
20 policies, furnish Lessor with evidence of renewals. Lessor reserves the right to require
21 complete certified copies of all said policies at any time.

22 f. Such insurance as required herein shall not be deemed to limit
23 Lessee's liability under this Lease. The procuring of insurance shall not be construed as
24 a limitation on liability or as full performance of the indemnification and hold harmless
25 provisions of this Lease.

26 g. Any modification or waiver of the insurance requirements herein shall
27 be made only with the written approval of the City's Risk Manager or designee.

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1 11. INDEMNITY.

2 A. Lessor, its boards, commissions, officials and employees shall not be
3 liable for and Lessee hereby waives all claims against them for loss, theft, or damage to
4 equipment, furniture, trade fixtures, furnishings, records, and other personal property in,
5 or at the Premises, for loss or damage to Lessee's business, or injury to or death of
6 persons in, on or at the Premises from any cause except to the extent caused by the
7 gross negligence or willful misconduct of Lessor, its Boards, commissions, officials and
8 employees.

9 B. Lessee shall defend, indemnify and hold harmless, the City of Long
10 Beach, its Boards and Commissioners, its officials, employees (for purposes of this
11 Section, collectively "City") and agents, from and against any and all liability, claims,
12 demands, damage, loss, causes of action, proceedings, penalties, costs, and expenses
13 (including attorneys' fees, court costs, and expert and witness fees) (collectively "Claims"
14 or individually "Claim") arising out of or in any way connected with the occupancy, use,
15 operation and/or control of the Premises by Lessee. Claims include, by way of example,
16 but are not limited to: Claims for prevailing wage, property damage, personal injury or
17 death arising in whole or in part from the negligence act or omission of Lessee, its
18 officers, employees, agents, contractors or anyone under Lessee's control (collectively
19 "Indemnitor"); Lessee's breach of this Lease; misrepresentation; willful misconduct; and
20 Claims by any employee of Indemnitor relating to workers' compensation. Independent
21 of the duty to indemnify and as a free-standing duty on the part of Lessee, Lessee shall
22 defend the City and shall continue such defense until the Claim (including allegations in a
23 Claim) is resolved, whether by settlement, judgment or otherwise. No finding or judgment
24 of negligence, fault, breach, or the like on the part of Indemnitor shall be required for the
25 duty to defend to arise. Lessee shall notify the City of any Claim within ten (10) days.
26 Likewise, City shall notify Lessee of any Claim and shall assist Lessee, as may be
27 reasonably requested, in such defense.

28 12. DAMAGE TO PREMISES. With the exception of ordinary wear and

1 tear, Lessee shall be liable for and shall pay the cost of any and all loss, injury or damage
2 to the Premises or any equipment on the Premises, by or on account of any act or
3 omission by Lessee, Lessee's employees, agents, invitees, or licenses.

4 13. TAXES AND ASSESSMENTS. Lessee recognizes and understands
5 that this Lease may create a possessory interest subject to property taxation and that the
6 Lessee may be subject to the payment of property taxes levied on such interest. All
7 taxes and assessments which become due and payable upon the Premises or upon
8 fixtures, equipment, or other property installed or constructed thereon, shall be the full
9 responsibility of Lessee, and Lessee shall cause said taxes and assessments to be paid
10 promptly.

11 14. UNLAWFUL USE. Lessee agrees that no improvements shall be
12 erected, placed upon, operated, nor maintained upon the Premises, nor any business
13 conducted or carried on therein or therefrom, in violation of the terms of this Lease, or of
14 any regulation, order, law, statute, or ordinance of a governmental agency having
15 jurisdiction.

16 15. LESSEE'S PERSONAL PROPERTY. Upon the termination of this
17 Lease (whether by lapse of time or otherwise), Lessee shall promptly remove all of its
18 inventory, furniture, fixtures, and equipment and restore the Premises to the condition
19 existing at the commencement date of this Lease, reasonable wear and tear excepted. If
20 Lessee abandons the Premises, is dispossessed thereof by process of law, or otherwise
21 vacates the Premises, title to any personal property belonging to Lessee and left on the
22 Premises forty-five (45) days after such abandonment, dispossession, or vacation shall
23 be deemed to have been transferred to Lessor. Lessor shall have the right to remove
24 and to dispose of such property without liability therefor to Lessee or to any person
25 claiming under Lessee and shall have no need to account therefor.

26 16. HOLDING OVER. In the event Lessee shall continue in possession
27 of the Premises after the expiration of the Term, such possession shall not be considered
28 a renewal of this Lease but a tenancy from month to month and shall be governed by the

1 conditions and covenants contained in this Lease.

2 17. ASSIGNING, SUBLETTING, AND ENCUMBERING. Lessee shall
3 not transfer, assign, sublet, or encumber its interests in this Lease without Lessor's prior
4 written approval, which consent shall not be unreasonably withheld. Any transfer,
5 assignment, subletting, or encumbering, whether voluntary or involuntary, without
6 Lessor's consent shall constitute a default and shall be voidable at Lessor's election. No
7 consent to any transfer, assignment, subletting, or encumbering shall constitute a further
8 waiver of the provisions of this paragraph. Any assignee of Lessee shall execute an
9 agreement running to Lessor assuming Lessee's obligations under this Lease. Lessee
10 shall remain fully obligated to Lessor under this Lease notwithstanding any transfer,
11 assignment, subletting, or encumbering of any indulgence granted by Lessor to Lessee
12 or to any transferee, assignee, sublessee, or secured lender unless released in writing by
13 Lessor.

14 18. SUCCESSORS IN INTEREST. Unless otherwise provided in this
15 Lease, the terms, covenants and conditions contained herein shall apply to and bind the
16 heirs, successors, executors, administrators, and assigns of all the parties hereto.

17 19. LESSEE'S DEFAULT. The occurrence of any of the following shall
18 constitute a default by Lessee

19 A. Failure to pay rent when due, if the failure continues for five (5) days
20 after notice has been given to Lessee.

21 B. Failure to perform any of the provisions of this Lease, if the failure to
22 perform is not cured within thirty (30) days after notice has been given to Lessee.

23 Notices given under this paragraph shall specify the alleged default and the
24 applicable Lease provisions, and shall demand that Lessee perform the provisions of the
25 Lease or pay the rent that is in arrears, as the case may be, within the applicable period
26 of time or quit the Premises. No such notice shall be deemed a forfeiture or a termination
27 of this Lease unless Lessor so elects in the notice.

28 20. LESSOR'S REMEDIES. Lessor shall have the following remedies if

1 Lessee commits a default. These remedies are not exclusive; they are cumulative in
2 addition to any remedies now or later allowed by law. Lessor can continue this Lease in
3 full force and effect, and the Lease will continue in effect as long as Lessor does not
4 terminate Lessee's right to possession, and Lessor shall have the right to collect rent
5 when due. During the period Lessee is in default, Lessor can enter the Premises and
6 relet them, or any part of them, to third parties for Lessee's account. Lessee shall be
7 liable immediately to Lessor for all costs Lessor incurs in reletting the Premises,
8 including, without limitation, broker's commissions, expenses of remodeling the Premises
9 required by the reletting, and like costs. Reletting can be for a period shorter or longer
10 than the remaining term of this Lease. Lessee shall pay to Lessor the rent due out of this
11 Lease on the dates the rent is due, less the rent Lessor receives from any reletting. No
12 act by Lessor allowed by this paragraph shall terminate this Lease unless Lessor notifies
13 Lessee that Lessor elects to terminate this Lease. After Lessee's default, and for as long
14 as Lessor does not terminate Lessee's right to possession of the Premises, if Lessee
15 obtains Lessor's consent, Lessee shall have the right to assign or sublet its interests in
16 this Lease, but Lessee shall not be released from liability. Lessor can terminate Lessee's
17 right to possession of the Premises at any time. No act by Lessor other than giving
18 notice to Lessee shall terminate this Lease. Acts of maintenance, efforts to relet the
19 Premises, or the appointment of a receiver on Lessor's initiative to protect Lessor's
20 interest under this Lease shall not constitute a termination of Lessee's right to
21 possession. Lessor, at any time after Lessee commits a default, can cure the default at
22 Lessee's cost. If Lessor, at any time, by reason of Lessee's default pays any sum or
23 does any act that requires the payment of any sum, the sum paid by Lessor shall be
24 immediately due from Lessee to Lessor at the time the sum is paid, and if paid at a later
25 date shall bear interest at the rate of 10% per annum from the date the sum is paid by
26 Lessor until Lessor is reimbursed by Lessee. The sum, together with the interest on it,
27 shall be deemed additional rent.

28 21. LESSOR'S DEFAULT. Lessor shall be in default of this Lease if it

1 fails or refuses to perform any provision of this Lease that it is obligated to perform if the
2 failure to perform is not cured within sixty (60) days after notice of the default has been
3 given by Lessee to Lessor. If the default cannot be reasonably cured within sixty (60)
4 days, Lessor shall not be in default of this Lease if Lessor commences to cure the default
5 within the sixty (60) day period and diligently and in good faith continues to cure the
6 default.

7 22. TOTAL TAKING. If, after the effective date, the whole of the
8 Premises, or other improvements to be made by Lessee shall be taken by right of
9 eminent domain or otherwise for any public or quasi-public use, then, when possession
10 shall be taken thereunder by the condemner, or the Lessee is deprived of its practical use
11 of the Premises, and other improvements, whichever date is earlier, this Lease and all
12 rights of Lessor and Lessee hereunder, shall terminate and any rent and all other
13 payments required of Lessee shall be apportioned between the parties. In the event of a
14 partial taking, as a result of which the remaining portion of the Premises, or any other
15 improvements on the Premises cannot be restored to an economically operable facility of
16 a comparable kind and quality to the facility existing prior to the taking with the
17 condemnation awards received by Lessee, then this Lease, at Lessee's option, shall
18 terminate as of the time when possession of the Premises shall be taken by the
19 condemner or Lessee is deprived of its practical use thereof, whichever date is earlier.

20 23. PARTIAL TAKING. If, after the effective date, a portion of the
21 Premises or any other improvements shall be taken by right of eminent domain or
22 otherwise for any public or quasi-public use and the remaining portion of the Premises
23 and improvements can be restored by Lessee to an economically operable facility of
24 comparable kind and quality to the facility existing prior to the taking, then this Lease
25 shall not be affected and Lessee shall retain the remaining portion of the Premises;
26 provided, however, that the fixed minimum rent shall be reduced proportionally. For
27 example, the monthly rent will be reduced by half if the total number of square feet in the
28 Premises taken is half of the total number of square feet in the Premises immediately

1 before the taking.

2 24. EMINENT DOMAIN AWARD. If there is a taking by right of eminent
3 domain, the rights and obligations of the parties with reference to the award and the
4 distribution thereof shall be determined in accordance with the provisions of this section.
5 The award shall belong to and be paid to Lessor, except that Lessee shall receive from
6 the award the following:

7 A. A sum attributable to the value of Lessee's leasehold estate
8 including improvements.

9 B. A sum attributable to severance damages to be used solely for the
10 restoration of the other improvements upon the Premises.

11 25. AMENDMENTS. This Lease sets forth all of the agreements and
12 understandings of the parties and any modification must be in writing duly executed by
13 both parties.

14 26. CAPTIONS. The captions and the table of contents of this Lease
15 shall have no effect on its interpretation.

16 27. PROVISIONS ARE COVENANTS AND CONDITIONS. All
17 provisions, whether covenants or conditions, on the part of Lessee shall be deemed to be
18 both covenants and conditions.

19 28. CALIFORNIA LAW. This Lease shall be construed and interpreted
20 in accordance with the laws of the State of California.

21 29. WAIVER. No delay or omission in the exercise of any right or
22 remedy of Lessor on any default by Lessee shall impair such a right or remedy or be
23 construed as a waiver. The receipt and acceptance by Lessor of delinquent rent shall not
24 constitute a waiver of any other defaults; it shall constitute only a waiver of timely
25 payment for the rent payment involved. No act or conduct of Lessor, including, without
26 limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of
27 the surrender of the Premises by Lessee before the expiration of the term. Only a notice
28 from Lessor to Lessee shall constitute an acceptance of the surrender of the Premises

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1 and accomplish a termination of the Lease. Lessor's consent or approval shall not be
2 deemed to waive or render unnecessary Lessor's consent to or approval of any
3 subsequent act by Lessee. Any waiver by Lessor of any default must be in writing and
4 shall not be a waiver of any other default concerning the same or any other provision of
5 the Lease.

6 30. NONDISCRIMINATION. In the performance of this Lease, Lessee
7 agrees not to discriminate against any employee or applicant for employment or service
8 on the basis of race, color, religion, ancestry, sex, sexual orientation, AIDS, AIDS related
9 condition, national origin, age, marital status, disability, handicap or veteran status.

10 IN WITNESS WHEREOF, the parties have executed this Lease as of the
11 date first written above.

SOUTH COAST AIR QUALITY MANAGEMENT
DISTRICT, a California public agency

12
13
14 Dated 8/30, 2019

By 

15 APPROVED AS TO FORM

MATT MIYASATO

(Type or Print Name)

16 BAYRON T. GILCHRIST, GENERAL COUNSEL

17 By: 

"Lessee"

18 Date: 8/29/19

CITY OF LONG BEACH, a municipal
Corporation

19
20 Dated Oct. 1, 2019

By 
City Manager

"Lessor"

21
22 The foregoing Lease is hereby approved as to form this 25 day of
23 Sept. 2019.

24
25
26 CHARLES PARKIN, City Attorney

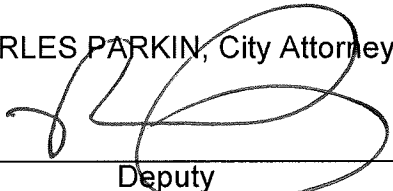
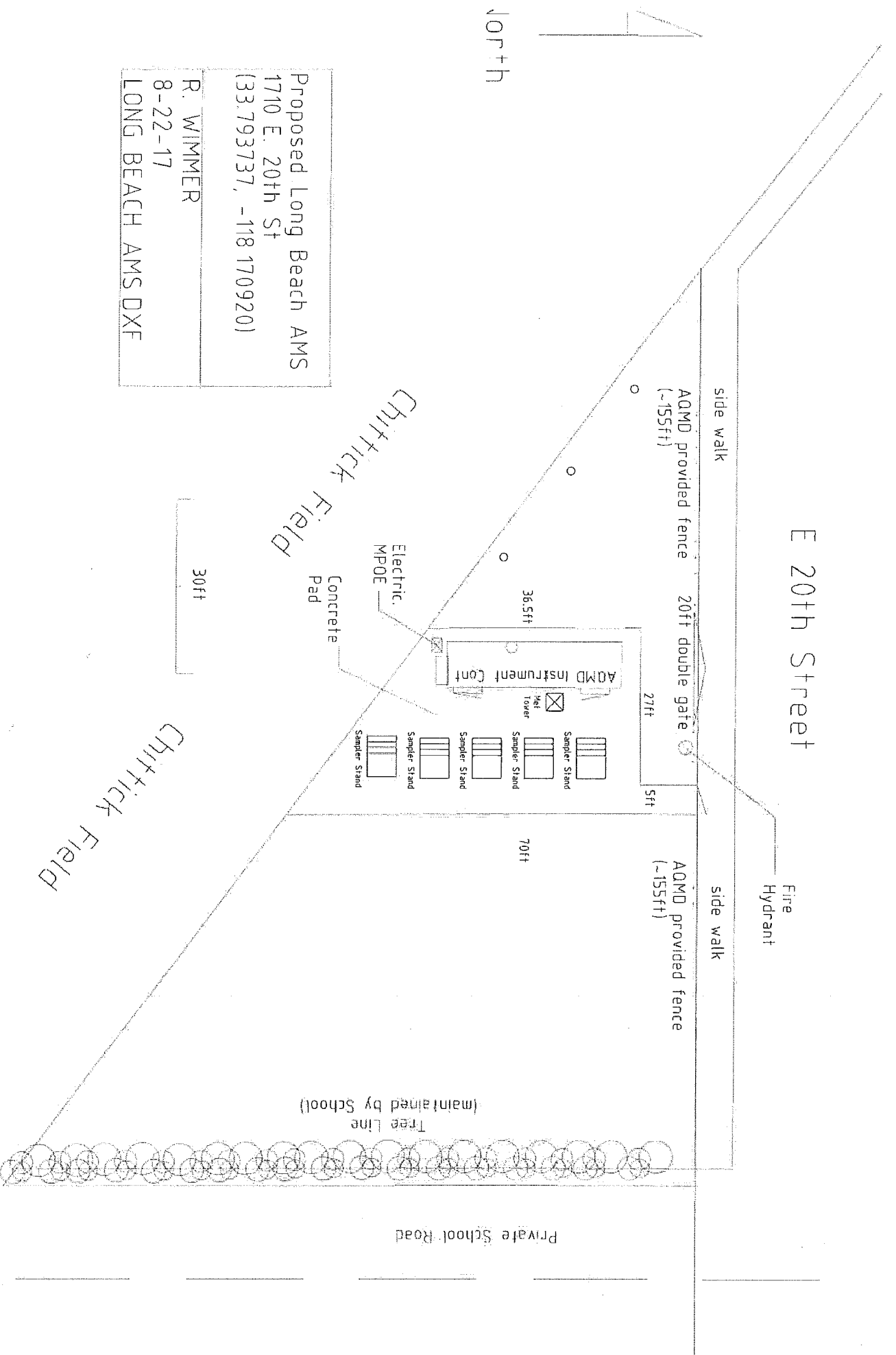
27 By 
28 Deputy

Exhibit A



Proposed Long Beach AMS
 1710 E. 20th St
 (33.793737, -118.170920)

R. WIMMER
 8-22-17
 LONG BEACH AMS DXF