

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:

**ADMINISTRATIVE CIVIL LIABILITY
ORDER NO.
R4-2024-0325
IN THE MATTER OF JBR Management
Company LLC (Fountainwood Estates);
WDID: 4 56C386799**

**ORDER NO. 2024-0325 (PROPOSED)

SETTLEMENT AGREEMENT AND
STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY ORDER;
ORDER**

Section I: INTRODUCTION

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (“Stipulated Order” or “Order”) is entered into by and between the Assistant Executive Officer of the Regional Water Quality Control Board, Los Angeles Region (“Regional Water Board”), on behalf of the Regional Water Board Prosecution Team (“Prosecution Team”) and JBR Management Company LLC (“Settling Respondent”) (collectively “Parties”) and is presented to the Regional Water Board¹, for adoption as an Order by settlement, pursuant to Water Code section 13323 and Government Code section 11415.60.

Section II: RECITALS

1. On March 13, 2023, counsel for the Regional Water Board offered to engage in confidential settlement communications with JBR Management Company LLC or, in the alternative, issue an administrative civil liability complaint (ACLC) for violations related to construction work on the Fountainwood Estates Project, located west of Denton Street at Summit Avenue, in Simi Valley, California 93063 (Site). The alleged violations, as described more fully in the Attachment A attached to this agreement, arose out of activities allegedly in violation of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit) Order No. 2009-009-DWQ as amended by Order No. 2010-0014-DWQ and Order No. 2012-0006-DWQ, and NPDES No. CAS00002.
2. The Parties have engaged in settlement negotiations and agree to fully settle the alleged violations without administrative or civil litigation and by presenting this Stipulated Order to the Regional Water Board for adoption as an Order by settlement, pursuant to Water Code sections 13323 and Government Code section 11415.60. The Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and that no further action is warranted concerning the specific violations alleged to have occurred at the Site, except as provided in this Stipulated Order and that this Stipulated Order is in the best interest of the public.
3. The liability amount agreed upon in this Stipulated Order is significantly reduced from the liability proposed initially during settlement negotiations based on a consideration of the Settling

¹ The Regional Water Board’s delegee may act on behalf of the Regional Water Board.

Respondent's ability to pay. The Prosecution Team's financial expert has determined that the Settling Respondent is unable to pay the liability proposed by the Prosecution Team, or any substantial amount beyond what is proposed in this Stipulated Order. As described in the Prosecution Team's expert report, the Settling Respondent's ability to pay does not extend to the full amount sought by the Regional Water Board. The proposed liability amount is greater than the economic benefit amount.

Section III: STIPULATIONS

The Parties stipulate to the following:

4. **Jurisdiction:** The Parties agree that the Regional Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties to this Stipulation.

5. **Administrative Civil Liability:** The Settling Respondent agrees to the imposition of THREE HUNDRED THOUSAND (\$300,000) in administrative civil liability as described in this Stipulated Order, consistent with settlement discussions related to the alleged violations of the Construction General Permit at the Site.

- A. No later than 30 days after the Regional Water Board issues this Order, Settling Respondent shall submit a check for THREE HUNDRED THOUSAND DOLLARS (\$300,000) made to the "State Water Pollution Cleanup and Abatement Account" and mail it to:

State Water Resources Control Board Accounting Office
Attn: ACL Payment
P.O. Box 1888
Sacramento, CA 95812-1888

The check shall reference the Order number assigned to this Stipulation, and a copy of the check shall be sent via email at the time payment is made to Russ Colby, (russ.colby@waterboards.ca.gov) and Julie Macedo, (julie.macedo@waterboards.ca.gov).

6. **Compliance with Applicable Laws and Regulatory Changes:** The Settling Respondent understands that payment of an administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that additional violations of the type alleged may subject it to further enforcement, including additional administrative civil liabilities. Nothing in this Stipulated Order shall excuse the Settling Respondent from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.

7. **Additional Required Action – CGP Training:** Settling Respondent agrees that appropriate staff (project manager, foreperson, etc.) from JBR will enroll in and complete training California Stormwater Quality Association ("CASQA") Training. The selected person or persons will have responsibility for distributing information to other employees/contractors who work on JBR projects. No later than 90 days after the Regional Water Board issues this Order,

Settling Respondent shall submit a certificate of completion of at least 4 hours of training in compliance with CASQA to the contacts listed above.

8. **Evidence of Prior Enforcement:** Settling Respondent denies any and all liability in connection with the alleged violations. Nonetheless, the Parties agree, pursuant to Water Code section 13327 and or section 13385, subdivision (e), that, in the event of any future enforcement actions by the Regional Water Board, the State Water Board or any other Regional Water Quality Control Board, this Stipulated Order may be used as evidence of a prior enforcement action that the Parties agreed to resolve by settlement without administrative or civil litigation and by presenting this Stipulated Order to the Regional Water Board for adoption as an Order by settlement, pursuant to Water Code sections 13323 and Government Code section 11415.60. The Parties acknowledge that this Stipulated Order represents a compromise and final settlement of disputed claims and agree that the performance of the conditions and provisions of this Stipulated Order is not to be construed as an admission of any liability or wrongdoing whatsoever by Settling Respondent.

9. **Release by the Regional Water Board:** The Regional Water Board hereby releases and forever discharges Settling Respondent, together with its predecessors, successors, direct and indirect parent companies, direct and indirect subsidiary companies, companies under common control with any of the foregoing, affiliates, and assigns, and its and their past, present, and future officers, directors, shareholders, interest holders, members, partners, attorneys, agents, employees, managers, representatives, assigns, and successors in interest, and all persons acting by, through, under or in concert with them, and each of them, from all known and unknown charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties, fees, wages, medical costs, pain and suffering, mental anguish, emotional distress, expenses (including attorneys' fees and costs actually incurred), and punitive damages, of any nature whatsoever, whether at law or in equity, or known or unknown, which the Regional Water Board has, or may have had, against Settling Respondent, whether or not apparent or yet to be discovered, or which may hereafter develop, for any acts or omissions related to or arising from the events described in Section II and Attachment A. This Agreement resolves any claim for relief that has or could have been alleged by the Regional Water Board against Settling Respondent, no matter how characterized, including, without limitation, compensatory damages, damages for breach of contract, penalties, bad faith damages, reliance damages, liquidated damages, damages for humiliation and embarrassment, punitive damages, costs, and attorneys' fees.

10. **Publication:** Settling Respondent understands that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the Regional Water Board. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Regional Water Board for adoption, the Prosecution Team may unilaterally declare this Stipulated Order void and decide not to present it to the Regional Water Board. Settling Respondent agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order. The Prosecution Team's expert report (which shall not include Settling Respondent's financial statements or specific information regarding Settling Respondent's financial situation) regarding Settling Respondents' ability to pay may be provided to members of the public on request but shall not be posted on the internet, either in conjunction with the draft issued for public comment or any final Order adopted by the Regional Water Board.

11. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Regional Water Board's adoption of the Order, and public review of this Stipulated Order is lawful and adequate. The Parties understand that the Regional Water Board has the authority to require a public hearing to consider adoption of this Stipulated Order. In the event procedural objections are raised or the Regional Water Board requires a public hearing prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the procedure and/or this Stipulated Order as necessary or advisable under the circumstances.

12. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

13. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The Parties are represented by counsel in this matter.

14. **Modification:** The Parties shall not modify this Stipulated Order by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board.

15. **If the Stipulated Order Does Not Take Effect:** In the event that the Stipulated Order does not take effect because the Regional Water Board does not approve it, or the State Water Resources Control Board (State Water Board) or a court vacates it in whole or in part, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Regional Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violation(s), unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to the following:

- A. Objections related to prejudice or bias of any of the Regional Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulated Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the alleged violations; or
- B. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

16. **Waiver of Hearing:** Settling Respondent has been informed of the rights Water Code section 13323, subdivision (b) provides, and hereby waives its right to a hearing before the Regional Water Board prior to the Stipulated Order's adoption.

17. **Waiver of Right to Petition or Appeal:** Settling Respondent hereby waives its right to petition the Regional Water Board's adoption of the Stipulated Order for review by the State

Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.

18. **Covenant Not to Sue:** Settling Respondent covenants not to sue or pursue any administrative or civil claim(s) against any State agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulated Order.

19. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or the Regional Water Board to enforce any provision of this Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Team or Regional Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Order.

20. **Necessity for Written Approvals:** All approvals and decisions of the Regional Water Board under the terms of this Stipulated Order shall be communicated to the Settling Respondent in writing. No oral advice, guidance, suggestions, or comments from Regional Water Board employees or officials regarding submissions or notices shall be construed to relieve the Settling Respondent of its obligation to obtain any final written approval this Stipulated Order requires.

21. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Stipulated Order.

22. **No Third-Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.

23. **Severability:** This Stipulated Order is severable; should any provision be found invalid, the remainder shall remain in full force and effect.

24. **Counterpart Signatures; Facsimile and Electronic Signature:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document. Further, this Stipulated Order may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.

25. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Regional Water Board enters the Order incorporating the terms of this Stipulation.

IT IS SO STIPULATED.

By: Original Signed by Russ Colby on January 16, 2025

Russ Colby,
Acting Assistant Executive Officer
Regional Water Board Prosecution
Team

Date

By:

(Name/Title)

Date

Original Signed by Mark Rosenberg on January 9, 2025

(Signature)
JBR Management Company LLC

HAVING CONSIDERED THE PARTIES' STIPULATIONS, THE LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD FINDS THAT:

1. The foregoing Stipulation is fully incorporated herein and made part of this Order.
2. This is an action to enforce the laws and regulations administered by the Regional Water Board. The Regional Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321, subdivision (a)(2), Title 14, of the California Code of Regulations.
3. The Executive Officer of the Regional Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Settling Respondent fails to perform any of its obligations under this Order.

Pursuant to Water Code section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the California Regional Water Quality Control Board, Los Angeles Region.

By: _____
Executive Officer Susana Arredondo
Los Angeles Regional Water Quality Control Board