

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisor Kevin Jeffries, 1st District

SUBMITTAL DATE: March 20, 2013

SUBJECT: License Agreement with the City of Wildomar for a City Corporate Yard

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve the License Agreement for a City Corporate Yard with the City of Wildomar, and authorize the Chairman to execute the Agreement;
- 2) Authorize the Director of Transportation and Land Management to administer this Agreement.

BACKGROUND: The Transportation Department owns a forty (40) acre parcel along Bundy Canyon Road within the City of Wildomar which is utilized for a materials and storage yard. The City of Wildomar has approached my office with a request to utilize the property from time-to-time for special events, since it is one of the few large parcels in the City under public ownership. The City would also like to make use of a small portion of the parcel for regular storage of maintenance equipment.

The Transportation Department supports developing a cooperative arrangement with the City that provides for partial City use of this property while meeting the needs of the Transportation Department to keep a fully-functioning material yard in operation.

The Department has worked with the City to develop the attached License Agreement. Under the terms of the Agreement the City will fully indemnify the County for the use by the City or any third parties that have events sponsored by the City. The City will take the necessary precautions to fence-off portions of the property, obtain any necessary permits, and implement any needed measures to conduct events safely at this location in a way that does not interfere with its primary use as a Transportation Facility. This Agreement is subject to 30-day cancellation by either party.

Kevin Jeffries
1st District Supervisor

LICENSE AGREEMENT
FOR
CITY CORPORATE YARD

This **LICENSE AGREEMENT FOR CITY CORPORATE YARD** ("License"), dated this ____ day of _____, 2013, by and between the County of Riverside, hereinafter referred to as "Licensor," and City of Wildomar, hereinafter referred to as "Licensee."

RECITALS

- A. Licensee is in need of a location to establish a municipal corporate yard for the storage of materials (in a space identified as storage within Exhibit A), and also desires to have a space available for the conduct of City periodic events or private events sponsored by the City, subject to a Use Permit pursuant to the terms of this License.
- B. Licensor maintains a County yard within the City and desires to license to Licensee a portion of that yard for the purposes stated herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by Licensor and Licensee contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

1. **LICENSE**: Licensor licenses to Licensee, and the Licensee does hereby license from the Licensor, that certain real property located at 22-800 Bundy Canyon Road, Wildomar, California, described and depicted more particularly in Exhibit A attached hereto and incorporated by this reference (the "Premises").
2. **TERM**: The term of this License shall be for a five (5) year period commencing on the ____ day of _____, 2013. Licensee maintains the option to renew the License for two additional one year periods by providing written notice to Licensor at least thirty (30) days prior to the expiration of the original or any subsequent term.
3. **TERMINATION WITHOUT CAUSE**: Licensor or Licensee may terminate this License at any time without cause by notifying the other party with at least thirty (30) days' advance written notice.
4. **"AS IS" LICENSE; LIMITED WARRANTIES**: Licensee acknowledges and agrees that, except as expressly set forth in this License, Licensor has made, and is making, no representations or warranties of any kind or nature whatsoever (written, oral, expressed or implied) respecting the Premises or any part thereof, including, without limitation, the condition of the Premises, the suitability of the Premises for the conduct of Licensee's business thereon, any zoning, land use or other laws, rules, regulations, conditions or limitations now or hereafter applicable to the Premises or Licensee's use thereof, or any other matters (whether or not of public record) respecting the Premises. Licensee acknowledges and agrees that, prior to entering

into this License, it has examined and inspected the Premises and every part thereof and has performed such tests and studies and has reviewed all such matters respecting the Premises (whether or not of public record) to the full extent Licensee has deemed necessary, and that in entering into this License (except as otherwise expressly provided herein), Licensee is not relying upon any representation or warranty of any kind or nature whatsoever by Licensor and that the Premises are acceptable to Licensee in all respects and Licensee is accepting the Premises in their "AS IS" condition.

Notwithstanding the foregoing, Licensor represents and warrants that:

4.1 Licensor has full right and authority to enter into this License, and the execution and delivery of this License and the performance by Licensor of its obligations hereunder have been duly authorized by all necessary means on the part of Licensor.

5. RENT: Licensee agrees to pay on the commencement date of the License, and annually on the anniversary of the commencement date, the sum of One Dollar (\$1.00).

6. PRINCIPAL USE OF PREMISES: The Premises will be used by the Licensee for the principal purpose of maintaining Licensee's municipal corporate yard on the portion of the premises that abut Bundy Canyon Road within the existing area that is gated and fenced from the rest of the premises. Licensee may also conduct Sponsored Events on the Premises as described in Section 7. Licensee acknowledges that the primary use of the premises are for the operation of a transportation materials and storage yard by the County Transportation Department, and that any use of the site by Licensee under the terms of this agreement will be secondary to the ongoing primary use by the County Transportation Department.

7. SPONSORED EVENTS: With the permission of the Riverside County Transportation & Land Management Agency ("TLMA") via a Use Permit, a sample which is hereby attached as Exhibit B, the Licensee may use the Premises for special events conducted by the Licensee or conducted by a third party with the permission of Licensee ("Sponsored Events"). All requests to conduct a Sponsored Event must be submitted to TLMA at least 90 days prior to the planned occurrence of the Sponsored Event. Upon receiving approval to conduct a Sponsored Event, the Licensee will be responsible for complying with all necessary Federal, State and local laws applicable to the Sponsored Event, including obtaining Environmental Health permits if required.

7.1 Licensee will provide for parking and appropriate traffic control, including use of police at the entrance of the Premises as the Licensee deems necessary for traffic safety, for all Sponsored Events.

7.2 Licensee agrees that it will fence off, or use other means acceptable to Licensor, any areas on the Premises identified by Licensor as posing a health and safety risk to the general public during the Sponsored Event. Such areas include, but are not limited to, an existing burn dump site on the Premises.

7.3 Licensee will be responsible for all costs associated with setting up, hosting and cleaning up Sponsored Events, including providing for portable restrooms, trash cans, water, electricity and other necessary appurtenances.

7.4 Any vendors and other third-parties using the Premises during a sponsored event will carry adequate insurance for the scope of products or services, or as described in Section 11.

8. GENERAL INDEMNITY. Licensee shall indemnify, protect, defend and hold harmless Licensor, and their elected and appointed officials, officers, agents and employees (collectively, the "Indemnified Parties"), from and against any and all claims, actions, liabilities, damages, losses, judgments, costs and expenses (including reasonable attorneys' fees and costs), (collectively "Claims") which the Indemnified Parties, or any of them, may suffer or incur arising from any default by Licensee under this License or from Licensee's use of the Premises, including use of the Premises for Sponsored Events, or from any activity, work or things done, permitted or suffered by Licensee in or about the Premises, and shall further indemnify, protect, defend and hold harmless the Indemnified Parties, and each of them, from and against any Claims arising from any negligence of Licensee, its agents, contractors, servants, employees, or licensees; provided, that the foregoing indemnity shall not extend to any Claims to the extent arising from the grossly negligent, willful or intentional acts or omissions of the Indemnified Parties, or any of them, as to all of which Claims Licensor shall indemnify, protect, defend and hold harmless Licensee.

9. LIMIT OF LICENSOR LIABILITY: Except to the extent arising from the grossly negligent, willful or intentional acts or omissions of Licensor, its elected or appointed officials, officers, agents or employees, Licensor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Licensee, Licensee's, licensees, employees, contractors, invitees, or any other person in or about the Premises, whether the said injury or damage results from conditions arising upon the Premises, or from other sources or places.

10. HAZARDOUS MATERIALS INDEMNITY: Licensee hereby agrees to indemnify, protect, defend and hold harmless the Licensor from and against any and all claims, actions, damages, losses, liabilities, judgments, costs and expenses (including reasonable attorneys' fees and costs), and including, without limitation, all foreseeable and unforeseeable consequential damages, which the Licensor may suffer or incur directly or indirectly arising out of or connected with (a) the use, generation, storage, disposal, release or threatened release of Hazardous Materials in, on, under or about the Premises due to the acts or omissions of Licensee, its licensees, directors, officers, employees, servants, contractors or agents, (b) any required or necessary repair, cleanup or detoxification and the preparation of any closure or other required plans, to the full extent that such action is attributable, directly or indirectly, to the presence, use, generation, storage, disposal, release or threatened release of Hazardous Materials in, on, under or about the Premises due to the acts or omissions of Licensee, licensees, directors, officers, employees, servants, contractors or agents. Licensee shall not be liable for Hazardous Materials that existed prior to their use of the premises or caused by the acts or negligence of the Licensor. As used herein, "Hazardous Materials" means (1) any flammable explosives, radioactive materials, asbestos, PCB's, hazardous wastes, toxic substances or related materials, including, without limitation, all substances, wastes, pollutants and contaminants now or hereafter included within such (or any similar) term under any federal, state or local statute, ordinance, code, rule or

regulation now existing or hereafter enacted or amended. The provisions of this Section 10 shall survive the expiration or earlier termination of this License.

11. INSURANCE: Throughout the term of this License, at Licensee's sole cost and expense, Licensee shall maintain in full force insurance coverage, including self-insurance retention, in an amount not less than One Million Dollars (\$1,000,000) per occurrence. The policy shall insure performance by Licensee of its indemnity obligations under Section 8 and 10, but the limits of such policy shall not limit Licensee's liability under said Section or this License.

11.1 Any third parties conducting a Sponsored Event on the Premises, and any vendors for Sponsored Events, must have the same amounts and types of insurance coverage as Licensee, and must add the Licensor and Licensee as additional insureds.

11.2 Licensee shall also maintain worker's compensation insurance coverage as required by California law.

12. REPAIRS: Licensee shall, at its sole cost and expense, keep and maintain the Premises and every part thereof in good and sanitary order, condition and repair. Licensee hereby waives all rights to make repairs at the expense of Licensor. By acceptance of the delivery of possession of the Premises Licensee shall be deemed to have accepted the Premises as being in good order, condition and repair, and agrees on the last day of the term of this License, or sooner if the same shall terminate, to surrender to Licensor all and singular said Premises with said appurtenances in the same condition as when received, reasonable use and wear and tear excepted.

13. ASSIGNMENT: Licensee shall not have the right to assign the rights under this License.

14. DEFAULT BY LICENSEE; TERMINATION FOR CAUSE: Should Licensee at any time be in default hereunder with respect to any term or condition of this License, Licensor, at its option, may give Licensee notice of the default and a time frame to cure the default, which shall be at least thirty (30) days. If Licensee does not cure the default in the time provided, or any extension thereof granted by Licensor, Licensor shall have the right to declare the term of this License ended and to re-enter the Premises and take possession thereof, and to terminate all of the rights of Licensee in and to the Premises, without requiring further advance notice as required in Section 3 of this License.

15. TITLE TO FIXTURES: All personal property and materials installed in the Premises by the Licensee (other than alterations which shall be deemed to be a part of the realty) shall be and remain the property of the Licensee, and at the expiration of the License, the Licensee may, within thirty (30) days, remove from said Premises all of such personal property and materials, provided that all costs connected with the removal thereof shall be at the expense of Licensee. Licensee further agrees to repair at its sole cost and expense all damage and waste that may result from the removal of such personal property and materials.

16. MECHANIC'S LIENS: Licensee agrees that it will pay, or cause to be paid, all costs for work done by it, or caused to be done by it, on the Premises, of a character which will, or may, result in liens on Licensor's reversionary estate therein, and Licensee will keep the Premises free and clear of all mechanic's liens, and other liens, on account of work done for Licensee or

persons claiming under it. Licensee agrees to, and shall, indemnify and save Licensor free and harmless against liability, loss, damage, costs or expenses, including attorney's fees, on account of claims and claims of lien of laborers, or materialmen or others, for work performed, or materials or supplies furnished, for Licensee or persons claiming under it.

16.1 If Licensee shall desire to contest any claim of lien, it shall furnish Licensor adequate security of the value or in the amount, of the claim, plus estimated costs and interest, or a bond of a responsible corporate surety in such amount conditioned on the discharge of the lien. If a final judgment establishing the validity or existence of a lien for any amount is entered, Licensee shall pay and satisfy the same at once.

16.2 Should any claims of lien be filed against the Premises, or any action affecting the title to such property be commenced, Licensee shall give Licensor written notice thereof as soon as it has knowledge thereof.

17. SEVERABILITY: If any term, provision, covenant or condition of this License should be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this License shall continue in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

18. INTERPRETATION: The laws of the State of California shall govern the validity, construction and effect of this License. Venue for any proceeding related to this License shall be in the County of Riverside

19. NOTICES: All notices required to be in writing to Licensor or Licensee hereunder shall be sent to:

Riverside County
Attn: Director of Transportation
County Administrative Center
4080 Lemon St., 2nd Floor
Riverside, CA 92502

City of Wildomar
Attn: Community Services Director
23873 Clinton Keith Rd.
Suite 201
Wildomar, CA 92595

20. AMENDMENTS: No amendment to or modification of this License shall be valid unless made in writing and approved by the Licensor and Licensee. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

21. ENTIRE AGREEMENT: This License, including Exhibits A and B, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other Agreements or understandings, whether oral or written, or

entered into between Licensor or Licensee prior to the execution of this License. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding.

22. WAIVER: Waiver by any party to this License of any term, condition, or covenant of this License shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this License shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this License.

23. NO REAL PROPERTY INTEREST. This is a temporary license to use the Premises for the term defined herein for limited storage and advance approved Sponsored Events. This agreement does not confer on, or vest in, Licensee any title, interest or estate in the property or defined premises. This License shall not be binding or consummated until its approval by the Riverside County Board of Supervisors.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement for City Corporate Yard on the date approved by the Riverside County Board of Supervisors.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: _____
John J. Benoit, Chairman
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:
PAMELA J. WALLS, County Counsel

By: 
Patricia Munroe, Deputy

CITY OF WILDOMAR

By: _____
Gary Nordquist, City Manager

ATTEST:

Debbie Lee, City Clerk

APPROVED AS TO FORM

Thomas D. Jex, City Attorney

EXHIBIT A

The County of Riverside assumes no warranty or legal responsibility for the information contained on this map. Data is subject to change without notice and may not be complete or appropriate for all purposes. County GIS information is provided for informational purposes only. Other sources should be queried for the most current information. Do not copy or reuse this map.



Printed by bhban on 3/27/2013

Bundy Canyon Materials Yard

0 250 500 1,000 Feet
 1 inch = 1,000 feet
 Orthophotos flown 2011



EXHIBIT B
SAMPLE USE PERMIT

**USE PERMIT
FOR CITY OF WILDOMAR
SPONSORED EVENTS**

THIS USE PERMIT IS ISSUED as of this day of by the County of Riverside (herein referred to as "County") to the following Permittee pursuant to the License Agreement between the County of Riverside and the City of Wildomar dated _____, 2013 ("License Agreement"):

Organization/Person:

Address:

City, State and Zip Code:

Contact Person:

Ph. Number:

1. Permittee may use the area(s) indicated below, subject to the payment to County of the applicable Rental and Security Fees. **Permittee is responsible for any necessary insurance required under the License Agreement.**

Rental Fee: \$

Security Deposit: \$

Said premises will be used and occupied by the Permittee on the following date(s):

Date(s) of Function:

Event Time:

Clean – up:

Type of Event:

2. The authority for the Director of Transportation and Land Management (TLMA) to execute this Use Permit is pursuant to the License Agreement between the County and City of Wildomar, approved by the Board of Supervisors on March ____, 2013.

3. The Permittee agrees to comply with the Administrative Policies and Procedures attached to this Use Permit, if applicable, which are incorporated herein by this reference. Permittee signing hereby certifies that he/she has legal capacity and is authorized by its governing body to enter into this Use Permit.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this use permit.

PERMITTEE:

By: _____

Printed: _____

Title: _____

Date: _____

PERMITTOR:

COUNTY OF RIVERSIDE, a political subdivision of the State of California

By: _____

Juan Perez, Director of TLMA

Date: _____

Approved as to Form:

Pamela J. Walls

County Counsel

By: _____

Patricia Munroe

Deputy County Counsel