

FORM APPROVED COUNTY COUNSEL
 BY: *G.P.P.*
 GREGORY P. PRIAMOS
 DATE

**SUBMITTAL TO THE FLOOD CONTROL AND
 WATER CONSERVATION DISTRICT BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

113B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
 July 12, 2016

SUBJECT: Approve License Agreement for Perris Valley Channel Lateral A,
 Project No. 4-0-0008, Encroachment Permit No. 3470; District 5 [\$/N/A]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the License Agreement between the District and CSIP WR Moreno Valley LLC (Licensee);
2. Authorize the Chairman to execute the Agreement documents on behalf of the District; and
3. Authorize the General Manager-Chief Engineer to terminate the Agreement at his or her sole discretion after providing ninety day advance written notice to Licensee.

BACKGROUND:

Summary

This Agreement sets forth the terms and conditions by which District will grant a revocable license to Licensee to allow Licensee to construct, operate and maintain a segment of private storm drain within District right of way.

Departmental Concurrence

LMD:bim
 P8/204855

Mark H. Willis
 for JASON E. UHLEY Mark H. Willis
 General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	

SOURCE OF FUNDS: Budget Adjustment: No
 For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

APPROVE
 BY: *Steven C. Horn*
 Steven C. Horn

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

On motion of Supervisor Ashley, seconded by Supervisor Jeffries and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Benoit and Ashley
 Nays: None
 Absent: Tavaglione
 Date: July 12, 2016
 xc: Flood

Kecia Harper-Ihem
 Clerk of the Board
 By: *Kecia Harper-Ihem*
 Deputy

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: District: 5th Agenda Number:

11-3

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT
BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FORM 11: Approve License Agreement for Perris Valley Channel Lateral A,
Project No. 4-0-0008, Encroachment Permit No. 3470; District 5 [\$/N/A]

DATE: July 12, 2016

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

This Agreement also sets forth the terms and conditions by which District will allow Licensee to enter upon District right of way in order to construct, operate and maintain a segment of privately-owned storm drain within District's Perris Valley Channel Lateral A right of way.

As consideration for the Agreement, Licensee agrees to operate and maintain the storm drain segment to keep it clear of debris. This license and maintenance obligation will run with the land and be binding upon all successors and assigns.

The City of Moreno Valley is a third party beneficiary to this Agreement and shall have the authority to enforce the Licensee's maintenance obligations.

All operation and maintenance costs associated with the private storm drain will be borne by Licensee.

County Counsel has approved the Agreement as to legal form and Licensee has executed the Agreement.

Impact on Residents and Businesses

This license establishes procedures and operations to direct flows from Licensee's property into Perris Valley Channel Lateral A. Residents and businesses will benefit from the reduced risk of flooding.

ATTACHMENTS:

1. Vicinity Map
2. License Agreement

LMD:blm
P8/204855

LICENSE AGREEMENT
Perris Valley Channel Lateral A
Project No. 4-0-0008
Encroachment Permit No. 3470

APN: 301-020-020, 301-020-021, 301-020-022, 316-020-039 and 316-020-040

This License Agreement ("License") is made and entered into this 12th day of July, 2016, between the Riverside County Flood Control and Water Conservation District, a body politic, ("Licensor") and CSIP WR Moreno Valley LLC, a Delaware limited liability company ("Licensee"). Licensor and Licensee are sometimes collectively referred to as "Parties".

RECITALS

A. Licensor is the owner of certain real property located in the City of Moreno Valley, commonly known as Perris Valley Channel Lateral A (APNs: 301-020-020, 301-020-021, 301-020-022, 316-020-039 and 316-020-040), and more particularly legally described in Exhibit "A", attached hereto and made a part hereof ("Property") and has the right to grant to Licensee permission to enter upon and use Property.

B. Licensee desires to obtain Licensor's permission to enter upon and use Property for the purpose of the maintenance of approximately 35 lineal feet of reinforced concrete box, hereinafter called "PRIVATE STORM DRAIN" as shown on Exhibit "B", attached hereto and made a part hereof.

C. Licensor desires to accommodate Licensee's request for permission to enter upon Licensor's Property for the maintenance of PRIVATE STORM DRAIN.

NOW, THEREFORE, Licensor and Licensee do hereby agree as follows:

AGREEMENT

1. Right of Entry. Licensor hereby grants to Licensee and its agents, employees and contractors the right to enter onto Property for the purpose of maintaining PRIVATE STORM DRAIN and for no other purpose.

1 2. Successors and Assigns. This License shall run with the land and be binding upon
2 all successors and assigns. This License shall be duly recorded upon execution to provide notice
3 to all future parties in interest.

4 3. Term. The term of this License shall commence on the date this License
5 Agreement is executed by all Parties hereto ("Effective Date"). This License may be terminated
6 by either party upon ninety (90) days advance written notice.

7 4. Consideration. Licensee agrees to maintain and ensure PRIVATE STORM
8 DRAIN is free of debris and fully operational as consideration for the rights granted by this
9 License. Upon demand, Licensee shall reimburse Licensor for all costs associated with preparing
10 and processing this License Agreement, including staff time, processing fees and counsel fees.

11 5. Liens. Licensee shall not permit to be placed against Property or any part thereof,
12 any design professionals', mechanics', material man's, contractors' or subcontractors' liens with
13 the regard to Licensee's actions upon Property. Licensee agrees to hold Licensor harmless for any
14 loss or expense, including reasonable attorneys' fee, arising from any such liens which might be
15 file against Property.

16 6. Indemnification. Licensee shall indemnify and hold harmless the Riverside
17 County Flood Control and Water Conservation District, the County of Riverside, its respective
18 directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and
19 representatives ("Indemnified Parties") from any liability whatsoever, based or asserted upon any
20 act or omission of Licensee, its officers, employees, subcontractors, agents or representatives
21 arising out of or in any way relating to or in any way connected with Property or this Agreement,
22 including but not limited to property damage, bodily injury, or death or any other element of any
23 kind or nature whatsoever. Licensee shall defend, at its sole expense, all costs and fees including,
24 but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the
25 Indemnified Parties in any claim or action based upon such alleged acts or omissions.

26 With respect to any action or claim subject to indemnification herein by Licensee,
27 Licensee shall, at their sole cost, have the right to use counsel of their own choice and shall have
28 the right to adjust, settle, or compromise any such action or claim without the prior consent of

1 Indemnified Parties; provided, however, that any such adjustment, settlement or compromise in
2 no manner whatsoever limits or circumscribes Licensee's indemnification to Indemnified Parties
3 as set forth herein. Licensee's obligation hereunder shall be satisfied when Licensee has provided
4 to Indemnified Parties the appropriate form of dismissal relieving Indemnified Parties from any
5 liability for the action or claim involved. The specified insurance limits required in this
6 Agreement shall in no way limit or circumscribe Licensee's obligations to indemnify and hold
7 harmless the Indemnified Parties herein from third party claims.

8 7. Insurance. As a condition to this License Agreement, without limiting or
9 diminishing the Licensee's obligation to indemnify or hold the Indemnified Parties harmless,
10 Licensee shall procure and maintain or cause to be maintained, at its sole cost and expense, the
11 following insurance coverages during the term of this Agreement:

12 A. Workers' Compensation. If the Licensee has employees as defined by the
13 State of California, the Licensee shall maintain statutory Workers'
14 Compensation Insurance (Coverage A) as prescribed by the laws of the State
15 of California. Policy shall include Employers' Liability (Coverage B)
16 including Occupational Disease with limits not less than **\$1,000,000** per
17 person per accident. The policy shall be endorsed to waive subrogation in
18 favor of the Licensor.

19 B. Commercial General Liability. Commercial General Liability insurance
20 coverage, including but not limited to, premises liability, contractual
21 liability, products and completed operations liability, personal and
22 advertising injury covering claims which may arise from or out of Licensee's
23 performance of its obligations hereunder. Policy shall name the Licensor,
24 the County of Riverside, their respective directors, officers, Board of
25 Supervisors, employees, elected or appointed officials, agents or
26 representatives as Additional Insureds. Policy's limit of liability shall not be
27 less than **\$1,000,000** per occurrence combined single limit. If such insurance
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contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability. If Licensee's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Licensee shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the Licensor, the County of Riverside, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

D. General Insurance Provisions - All lines

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the Licensor Risk Manager. If the Licensor's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The Licensee's insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the Licensor's Risk Manager before the commencement of use and operations under this Agreement. Upon notification of deductibles or self-insured retention's unacceptable to the Licensor, and at the election of the Licensor's Risk Manager, Licensee's carriers shall either; i) reduce or eliminate such deductibles or self-insured retention's as respects this Agreement with the Licensor, or ii) procure a bond which guarantees

1 payment of losses and related investigations, claims administration,
2 and defense costs and expenses.

- 3 3) Licensee shall cause Licensee's insurance carrier(s) to furnish the
4 Licensors with either i) a properly executed original Certificate(s) of
5 Insurance and certified original copies of Endorsements effecting
6 coverage as required herein, or ii) if requested to do so orally or in
7 writing by the Licensor's Risk Manager, provide original Certified
8 copies of policies including all Endorsements and all attachments
9 thereto, showing such insurance is in full force and effect. Further,
10 said Certificate(s) and policies of insurance shall contain the
11 covenant of the insurance carrier(s) that thirty (30) days written
12 notice shall be given to the Licensor prior to any material
13 modification, cancellation, expiration or reduction in coverage of
14 such insurance. In the event of a material modification, cancellation,
15 expiration, or reduction in coverage, this Agreement shall terminate
16 forthwith, unless the Licensor receives, prior to such effective date,
17 another properly executed original Certificate of Insurance and
18 original copies of endorsements or certified original policies,
19 including all endorsements and attachments thereto evidencing
20 coverage's set forth herein and the insurance required herein is in full
21 force and effect. *Licensee shall not commence entry until the*
22 *Licensor has been furnished original Certificate(s) of Insurance*
23 *and certified original copies of endorsements or policies of*
24 *insurance including all endorsements and any and all other*
25 *attachments as required in this Section. An individual authorized*
26 *by the insurance carrier to do so on its behalf shall sign the original*
27 *endorsements for each policy and the Certificate of Insurance.*
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4) It is understood and agreed to by the parties hereto and the insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance, and the Licensor's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) The Licensor's Reserved Rights - Insurance. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work (such as the use of aircraft or watercraft) the Licensor reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if; in the Licensor's Risk Manager's reasonable judgment, the amount or type of insurance carried by the Licensee has become inadequate.

6) Licensee shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the Licensor.

8. Compliance with Laws. Licensee shall, in all activities undertaken pursuant to this License, comply and cause its contractors, agents, and employees to comply with all federal, state, and local laws, statutes, orders, ordinances, rules, regulations, plans, policies, and decrees. Without limiting the generality of the foregoing, Licensee, at its sole cost and expense, shall obtain any and all permits which may be required by any law, regulation or ordinance for any activities Licensee desires to conduct or have conducted pursuant to this License.

9. Inspection. Licensor and its representatives, employees, agents or independent contractors may enter and inspect Property or any portion thereof or any improvements thereon

1 at any time and from time to time at reasonable times to verify Licensee's compliance with the
2 terms and conditions of this License.

3 10. Not Real Property Interest. It is expressly understood that this License is not
4 exclusive and does not in any way whatsoever grant or convey any permanent easement, lease,
5 fee or other real property interest in Property to Licensee.

6 11. Subordination. This License is subordinate to all prior and future rights of
7 Licensor in Property and the use of Property for the purposes in which it was acquired.

8 12. Protection and Restoration of Property. Licensee shall protect Property, including
9 all improvements and the natural resources thereon, at all times at Licensee's sole cost and
10 expense, and Licensee shall strictly adhere to the following restrictions:

- 11 A. Licensee may not place or dump garbage, trash or refuse anywhere upon or
12 within Property; and
- 13 B. Licensee may not commit or create, or suffer to be committed or created, any
14 waste, hazardous condition and/or nuisance to occur upon Property; and
- 15 C. Licensee may not cut, prune or remove any native trees or brush upon
16 Property, except for the elimination of safety hazards without first obtaining
17 written permission by the Licensor; and
- 18 D. Licensee may not disturb, move or remove any rocks or boulders upon
19 Property except for the elimination of safety hazards without first obtaining
20 written permission by the Licensor; and
- 21 E. Licensee must exercise due diligence in the protection of Property against
22 damage or destruction by fire, vandalism or other cause; and
- 23 F. Upon the termination or revocation of this License, but before its
24 relinquishment to Licensor, Licensee shall, at its own cost and expense,
25 remove any debris generated by its use and Property shall be left in a neat
26 condition. Licensee agrees not to damage Property in the process of
27 performing the permitted activities.
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1 13. Public Safety. Licensee shall, or cause its contractors or subcontractors, to take
2 any and all other necessary and reasonable steps to protect the public from harm due to the work.

3 14. Entire Agreement. This License Agreement is the result of negotiations between
4 the Parties hereto. The Parties further declare and represent that no inducement, promise or
5 agreement not herein expressed has been made to them and this License contains the entire
6 agreement of the Parties, and that the terms of this agreement are contractual and not a mere
7 recital. Any ambiguity in the Agreement or any of its provisions shall not be interpreted against
8 the Party drafting the agreement.

9 15. Warranty of Authority. The undersigned represents that it has the authority to, and
10 does, bind the person or entity on whose behalf and for whom it is signing this License and the
11 attendant documents provided for herein, and this agreement and said additional documents are,
12 accordingly, binding on said person or entity.

13 16. Assignment. Licensee may assign the rights, interests and obligations granted in
14 this License provided prior written consent has been obtained by Licensor. Upon assignment,
15 Licensee shall notify new party in interest (the "Assignee or Successor") of the rights and
16 obligations contained within this License Agreement and any such Assignees and Successors shall
17 be bound by the terms and conditions contained herein this License.

18 17. Choice of Law. This License Agreement will be governed and construed by the
19 laws of the State of California.

20 18. Third Party Beneficiary. This License is made for the benefit of the Parties to this
21 License Agreement and their respective successors and assigns, and except as provided in
22 Sections 16 and 19, no other persons or entity may have or acquire any right by virtue of this
23 License Agreement.

24 19. City of Moreno Valley Right of Enforcement. Notwithstanding the limitations
25 contained in Section 18 as it relates to no third party beneficiaries, all rights and remedies
26 conveyed to the Licensor under this License Agreement shall extend to and are enforceable by
27 the City of Moreno Valley, a municipal corporation and local jurisdiction in which Property is
28 situated.

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20. Modification. The agreement shall not be changed, modified, or amended except upon the written consent of the Parties hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

JUL 12 2016

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

By Mark H. Wills
for JASON UHLEY
General Manager-Chief Engineer

By Marion Ashley
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By Synthia M. Gunzel
SYNTHIA M. GUNZEL
Deputy County Counsel

By Karen Johnston
Deputy

(SEAL)

LICENSE AGREEMENT
Perris Valley Channel Lateral A
Project No. 4-0-0008
Encroachment Permit No. 3470
APNs: 301-020-020, -21, -22, 316-020-039 and -40
LMD:blm
05/17/16

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Licensee:

CSIP WR MORENO VALLEY LLC

By:



GARY EDWARDS

Principal/Managing Member

(ATTACH NOTARY WITH CAPACITY STATEMENT)

LICENSE AGREEMENT

Perris Valley Channel Lateral A

Project No. 4-0-0008

Encroachment Permit No. 3470

APNs: 301-020-020, -21, -22, 316-020-039 and -40

LMD:blm

05/17/16

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)
On May 31, 2016 before me, Jennifer Herold Brown,
Date Here Insert Name and Title of the Officer
personally appeared Gary M. Edwards
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Jennifer H. Brown
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: License Agreement Document Date: May 31, 2016
Number of Pages: 11 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Gary M. Edwards
 Corporate Officer — Title(s): Principal
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Exhibit A

APN: 301-020-020, -21, -22

Real property in the County of Riverside, State of California, described as known as Parcel 4010-37A & Parcel 4010A-37B as shown on record of survey filed in Book 97 on Pages 29-36 in Riverside, California.

APN: 316-020-039, -40

All that portion of Lot 13, Block 2 or Riverside Alfalfa Acres as shown by Map on file in Map Book 8, page 31, Records of the Recorder's office of Riverside County, California, that is contained in a strip of land having a right angle width of 150 feet, being 75 feet in width on each side of a center line described as:

Commencing at a point on the center line of Heacock Street, said point being 573.32 feet northerly of the southwest corner of Lot 13; thence south $44^{\circ} 47' 30''$ east 785.59 feet; thence along the arc of a 1000 foot radius curve concave to the southwest and tangent to the aforesaid line through an angle of $8^{\circ} 53' 31''$ a distance of 155.19 feet to a point on the southerly line of lot 13. Said point being 528.12 feet easterly of the southwest corner of lot 13. The boundary lines of said strip of land to be extended or shortened so as to end on the west and south lines of lot 13.

LICENSE AGREEMENT
Perris Valley Channel, Lateral A

TR 35879
Project No. 4-0-00008
Page 1 of 1

Exhibit B

