

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



ITEM
11.1
(ID # 4854)

MEETING DATE:

Tuesday, December 12, 2017

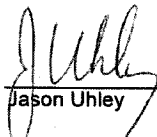
FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of the License Agreement for Oak Street Channel, Stage 1 (EP 3569); Project No. 2-0-00070; [District 2]; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the License Agreement between the District and the City of Corona (City);
2. Authorize the Chairman to execute the License Agreement documents on behalf of the District;
3. Authorize the General Manager-Chief Engineer to terminate the License Agreement at his sole discretion in accordance with the terms and conditions in the License Agreement; and
4. Direct the Clerk of the Board to return three (3) copies of the executed License Agreement to the District.

ACTION:

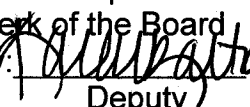

Jason Uhley

11/28/2017

MINUTES OF THE BOARD OF SUPERVISORS

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, Tavaglione, Perez and Ashley
Nays: None
Absent: Washington
Date: December 12, 2017
xc: Flood

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS:			Budget Adjustment:	No
			For Fiscal Year:	N/A

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

This License Agreement sets forth the terms and conditions by which the District will allow the City to enter upon District-owned property to construct, inspect, operate and maintain a vehicular bridge spanning the District's Oak Street Channel.

The bridge will not conflict with the Channel's primary function or the District's continuing operation and maintenance of the facilities.

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

Impact on Residents and Businesses

By providing an alternative access point to the City's Corporation Yard for City vehicles (e.g., police, fire, Department of Water and Power), the proposed vehicular bridge will enhance public safety and the City's ability to respond during an emergency or natural disaster.

SUPPLEMENTAL:

Additional Fiscal Information

All construction, inspection, operation and maintenance costs associated with the bridge use components will be borne by the City. The operation and maintenance of the existing flood control facility will continue to be a District responsibility.

ATTACHMENTS:

1. Vicinity Map
2. License Agreement

RKM:blm
P8/214373

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

Scott Bruckner

Scott Bruckner 12/4/2017

Gregory V. Priamos

Gregory V. Priamos, Director County Counsel 11/29/2017

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LICENSE AGREEMENT
Oak Street Channel, Stage 1
Concurrent with Encroachment Permit No. 3569
Project No. 2-0-00070

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", and the CITY OF CORONA, hereinafter called "CITY", hereby agree as follows:

RECITALS

A. DISTRICT owns, operates and maintains the Oak Street Channel (Project No. 2-0-00070), hereinafter called "CHANNEL", located in the city of Corona; and

B. CHANNEL is located within DISTRICT'S existing right of way identified as DISTRICT'S Parcel Numbers 2070-122D and 2070-122E, hereinafter called "CHANNEL RIGHT OF WAY"; and

C. CHANNEL is an essential and integral part of DISTRICT'S regional system of stormwater management infrastructure that provides critical flood control and drainage within the area; and

D. CITY desires to construct, operate and maintain a certain vehicular bridge within Rincon Street spanning CHANNEL; and

E. The required construction includes (i) construction of approximately 110-foot long, 20-foot wide, Bailey-style prefabricated bridge and ancillary structures, hereinafter called "BRIDGE", as shown in concept in yellow on Exhibit "A" attached hereto and made a part hereof, and (ii) the realignment of DISTRICT'S existing access maintenance road, fence and gates, hereinafter called "REALIGNED ACCESS ROAD". Together, BRIDGE and REALIGNED ACCESS ROAD are hereinafter called "PROJECT"; and

F. CHANNEL'S flood control function is sporadic in nature, and thus, construction and operation of BRIDGE may be accommodated within CHANNEL RIGHT OF

1 WAY to the extent that such uses do not unreasonably interfere with CHANNEL'S principal
2 function or DISTRICT'S ability to operate and maintain CHANNEL; and

3 G. Subject to the provisions of this License Agreement, DISTRICT is willing
4 to (i) allow CITY or its contractor to construct PROJECT within CHANNEL RIGHT OF WAY,
5 and (ii) allow CITY to operate and maintain said BRIDGE; and
6

7 H. In accordance with the provisions of this License Agreement, CITY is
8 willing to (i) prepare plans and specifications for PROJECT, (ii) construct PROJECT pursuant
9 to a public works contract, (iii) inspect the construction of PROJECT, (iv) accept ownership and
10 responsibility for the structural integrity of BRIDGE, (v) operate and maintain CITY constructed
11 BRIDGE, (vi) conduct periodic safety inspections of BRIDGE, and (vii) indemnify and hold
12 DISTRICT harmless against any claims resulting from the CITY'S use of BRIDGE; and
13

14 I. Pursuant to the California Environmental Quality Act (CEQA), CITY will
15 act as the sole Lead Agency. As such, CITY will have the corresponding responsibility to fulfill
16 the obligations of a CEQA Lead Agency with respect to the construction, operation and
17 maintenance of BRIDGE; and

18 J. Pursuant to CEQA, CITY prepared and adopted a Mitigated Negative
19 Declaration for PROJECT on February 3, 2016; and
20

21 K. It is in the public interest to proceed with this License Agreement.

22 NOW, THEREFORE, the parties hereto mutually agree as follows:

23 SECTION I

24 DISTRICT shall:

25 1. Act as Responsible Agency and take all necessary and appropriate action(s)
26 to comply with CEQA with respect to PROJECT.
27

28 2. Review, comment and approve, as appropriate, plans and specifications for
PROJECT, hereinafter together called "IMPROVEMENT PLANS", prior to CITY'S advertising

1 for construction bids.

2 3. Upon DISTRICT approval of IMPROVEMENT PLANS, issue a no-fee
3 encroachment permit to CITY for the construction, operation and maintenance of PROJECT in
4 accordance with DISTRICT approved IMPROVEMENT PLANS and subject to the provisions
5 set forth in DISTRICT'S Encroachment Permit.

6 4. Obtain permission from the U.S. Army Corps of Engineers pursuant to
7 United States Code, Title 33, Section 408 for PROJECT.

8 5. Grant CITY, its agents and contractors a revocable license to operate and
9 maintain BRIDGE within CHANNEL RIGHT OF WAY for emergency access purposes which
10 shall not, in any way whatsoever, impair CHANNEL'S primary flood control purpose and
11 function or otherwise unreasonably interfere with or adversely affect DISTRICT'S ability to
12 operate, maintain, repair or reconstruct CHANNEL or any of its appurtenant works. Said license
13 may be revoked by DISTRICT in the event that said uses unduly compromise CHANNEL'S
14 primary flood control purpose and function or interfere with DISTRICT'S ability to operate and
15 maintain CHANNEL.

16 6. [THIS SECTION INTENTIONALLY LEFT BLANK]

17 7. Inspect PROJECT construction, as appropriate.

18 8. Give written notice to CITY of any non-compatible use or condition that is
19 not in conformity with the provisions of this License Agreement or which may unreasonably
20 adversely affect CHANNEL'S flood control function.

21 9. Continue to maintain CHANNEL'S flood conveyance capacity in order for
22 CHANNEL to function as a flood control facility at its design level.

23 10. Assume no responsibility, obligation or liability whatsoever for (i) the
24 design, construction, operation or maintenance of BRIDGE, or (ii) CITY'S use of BRIDGE
25 within CHANNEL RIGHT OF WAY as granted herein.
26
27
28

1 11. Other than in emergency situations, provide thirty (30) days written notice
2 to CITY should DISTRICT determine that a closure of BRIDGE for the purpose of operation,
3 maintenance, repair or re-construction of CHANNEL is necessary.

4 SECTION II

5 CITY shall:

6
7 1. Pursuant to CEQA, act as the Lead Agency and assume responsibility for
8 the preparation, circulation and adoption of all necessary and appropriate CEQA documents
9 pertaining to the construction, operation and maintenance of BRIDGE.

10 2. Prepare or cause to be prepared bid documents for PROJECT in accordance
11 with applicable CITY standards.

12 3. Prepare or cause to be prepared IMPROVEMENT PLANS in accordance
13 with applicable DISTRICT standards and submit to DISTRICT for review and approval prior to
14 advertising for construction bids.

15 4. Pay all costs associated with preparation of IMPROVEMENT PLANS.

16 5. [THIS SECTION INTENTIONALLY LEFT BLANK]

17 6. Provide DISTRICT with a reproducible duplicate copy of final record
18 drawings.
19

20 7. Prior to commencing construction of PROJECT or any other improvements
21 within CHANNEL RIGHT OF WAY, obtain an Encroachment Permit from DISTRICT, pursuant
22 to its rules and regulations and comply with all provisions set forth therein.

23 8. Furnish DISTRICT with copies of all permits, approvals or agreements
24 required by any federal or state resource and/or regulatory agency for the construction, operation
25 and maintenance of PROJECT. Such documents, hereinafter called "REGULATORY
26 PERMITS", include but are not limited to those issued by the U.S. Army Corps of Engineers,
27 California Regional Water Quality Control Board, California State Department of Fish and
28

1 Wildlife, State Water Resources Control Board and Western Riverside County Regional
2 Conservation Authority.

3 9. Assume sole responsibility for compliance with the requirements of all
4 REGULATORY PERMITS, including any amendments thereto, pertaining to the construction,
5 operation and maintenance of PROJECT.

6 10. Ensure that REGULATORY PERMITS, including any subsequent
7 renewal or amendments thereto, will not (i) impede DISTRICT'S ability to perform all necessary
8 operation and maintenance activities for CHANNEL as determined by DISTRICT, or (ii) include
9 any stipulations that would result in additional mitigation obligations being placed upon
10 DISTRICT for maintenance operations within CHANNEL RIGHT OF WAY.

11 11. Order the relocation of all utilities, including any potholing, within CITY
12 rights of way which may conflict with the construction of PROJECT.

13 12. Advertise, award and administer a public works construction contract for
14 PROJECT at its sole cost and expense.

15 13. Construct or cause to be constructed PROJECT pursuant to a City
16 administered public works construction contract, in accordance with IMPROVEMENT PLANS
17 approved by DISTRICT and CITY, and pay all costs associated therewith.

18 14. Provide DISTRICT an opportunity to review and approve all construction
19 submittals, change orders and Requests For Information (RFIs) prior to CITY'S final approval.

20 15. Not permit any change to or modification of IMPROVEMENT PLANS
21 without the prior written permission and consent of DISTRICT.

22 16. Inspect PROJECT construction or cause PROJECT'S construction to be
23 inspected by its construction manager.

24 17. Assume sole responsibility for the construction, operation and maintenance
25 of PROJECT, including all necessary modifications, corrections or temporary removal as deemed
26
27
28

1 necessary by DISTRICT for the continuing function, reconstruction, repair or operation and
2 maintenance of CHANNEL.

3 18. Within CHANNEL RIGHT OF WAY, (i) assume sole responsibility for
4 the operation and maintenance of all CITY constructed improvements, including but not limited
5 to performing all necessary repairs and the routine removal of trash and debris associated with
6 CITY'S use of CHANNEL RIGHT OF WAY, (ii) assume sole responsibility for the structural
7 integrity of BRIDGE, and (iii) assume all liability associated with the use of BRIDGE and
8 CHANNEL RIGHT OF WAY as granted herein, including claims of third persons for injury or
9 death or damage to property. Said obligation shall not include any inverse condemnation liability
10 of DISTRICT by reason of the location of CHANNEL or BRIDGE improvements thereto unless
11 such liability is the result of CITY'S operations or use of the property by the public pursuant to
12 CITY'S actual or tacit consent.
13
14

15 19. Immediately remove, upon written request by DISTRICT'S General
16 Manager-Chief Engineer, any improvements and/or equipment not previously approved by
17 DISTRICT or cease use where CITY has installed any such improvements and/or equipment or
18 CITY has used or allowed use of CHANNEL RIGHT OF WAY in a manner which, in the sole
19 opinion of DISTRICT'S General Manager-Chief Engineer, would be detrimental to the operation
20 of CHANNEL.
21

22 20. With regard to PROJECT or any other CITY constructed improvements
23 and/or equipment situated within CHANNEL RIGHT OF WAY, waive any claim against
24 DISTRICT for damages resulting from DISTRICT'S customary use of CHANNEL RIGHT OF
25 WAY for operation and maintenance of CHANNEL or its appurtenant works, save and except
26 damages resulting from DISTRICT'S sole active negligence or willful misconduct.
27
28

1 21. Ensure the safety of CITY'S employees who may utilize property within
2 CHANNEL RIGHT OF WAY by conducting periodic safety inspections and promptly making
3 such repairs as are necessary to safeguard its use thereof.

4 22. In its use of CHANNEL RIGHT OF WAY under the rights herein granted,
5 promptly repair any damage to DISTRICT'S CHANNEL improvements caused by such use,
6 unless such damage is caused by flooding or is the result of DISTRICT'S customary operation,
7 maintenance or improvements to its facilities located therein.

8 23. If in the opinion of the General Manager-Chief Engineer CITY'S use of
9 CHANNEL RIGHT OF WAY may cause or contribute to a public hazard, a public nuisance,
10 degradation of water quality or any other matter of substantial concern to DISTRICT, DISTRICT
11 reserves the right to require remediation and, if remediation is unsuccessful, to terminate this
12 License Agreement.
13

14 24. Indemnify and hold harmless DISTRICT (including its directors, officers,
15 Board of Supervisors, elected and appointed officials, agents, employees, representatives,
16 independent contractors and subcontractors) from any liability whatsoever, based or asserted
17 upon any act or omission of CITY (including its officers, agents, employees, subcontractors,
18 independent contractors, guests and invitees), arising from, related to or in any manner connected
19 with CITY'S use and responsibilities in connection therewith of CHANNEL RIGHT OF WAY
20 or the condition thereof, including but not limited to property damage, bodily injury, or death or
21 any other element of any kind or nature whatsoever. CITY shall defend, at its sole expense, all
22 costs and fees including but not limited to, attorneys' fees, cost of investigation, defense and
23 settlements or awards, DISTRICT (including its directors, officers, Board of Supervisors, elected
24 and appointed officials, agents, employees, representatives, independent contractors and
25 subcontractors) in any claim or legal action based upon such alleged acts or omissions.
26
27
28

SECTION III

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is further mutually agreed:

1. BRIDGE shall, at all times, remain sole ownership and exclusive responsibility of CITY. Nothing herein shall be construed as creating any obligation or responsibility on the part of DISTRICT to operate, maintain or warranty BRIDGE.

2. If in the sole opinion of DISTRICT'S General Manager-Chief Engineer CITY'S use of CHANNEL RIGHT OF WAY may cause or contribute to a public health and safety hazard or any other matter of substantial concern to DISTRICT, DISTRICT reserves the right to terminate this License Agreement and any encroachment permit issued thereto.

3. Except as otherwise provided herein, all construction work associated with PROJECT shall be inspected by CITY and shall not be deemed complete until approved and accepted as complete by CITY.

4. DISTRICT personnel may observe and inspect all work being done on PROJECT. It is further mutually agreed by the parties hereto that any quality control comments shall be provided to CITY personnel who, as PROJECT construction contract administrator, shall be solely responsible for all official communications with its construction contractor(s).

5. Any waiver by DISTRICT or by CITY of any breach of any one or more of the terms of this License Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to require exact, full and complete compliance with any terms of this License Agreement shall not be construed as in any manner changing the terms hereof or estopping DISTRICT or CITY from enforcement hereof.

6. This License Agreement is to be construed in accordance with the laws of the State of California. If any provision of this License Agreement is held by a court of competent

1 jurisdiction to be invalid, void or unenforceable, the remaining provisions shall be declared
2 severable and shall be given full force and effect to the fullest extent possible.

3 7. Any legal action, in law or in equity, related to the performance or
4 interpretation of this License Agreement shall be filed only in the Superior Court of the State of
5 California located in Riverside, California, and the parties waive any provisions of law providing
6 for a change of venue to another location. Prior to the filing of any legal action, the parties shall
7 be obligated to attend a mediation session with a neutral mediator or try to resolve the dispute.
8

9 8. Any and all notices sent or required to be sent to the parties of this License
10 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

11 RIVERSIDE COUNTY FLOOD CONTROL	CITY OF CORONA
12 AND WATER CONSERVATION DISTRICT	400 S. Vicentia Avenue
13 1995 Market Street	Corona, CA 92882
14 Riverside, CA 92501	Attn: Darrell Talbert
Attn: Encroachment Permit Section	City Manager

15 9. This License Agreement is the result of negotiations between the parties
16 hereto and the advice and assistance of their respective counsel. The fact that this License
17 Agreement was prepared as a matter of convenience by DISTRICT shall have no import or
18 significance. Any uncertainty or ambiguity in this License Agreement shall not be construed
19 against DISTRICT because DISTRICT prepared this License Agreement in its final form.
20

21 10. This License Agreement is intended by the parties hereto as a final
22 expression of their understanding with respect to the subject matter hereof and as a complete and
23 exclusive statement of the terms and conditions thereof and supersedes any and all prior and
24 contemporaneous agreements and understandings, oral or written, in connection therewith. This
25 License Agreement may only be changed or modified by a written Amendment to this License
26 Agreement signed by both parties.

27 //
28 //

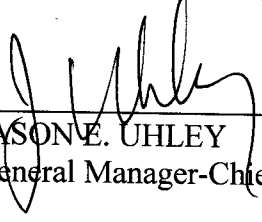
IN WITNESS WHEREOF, the parties hereto have executed this License Agreement on

DEC 12 2017

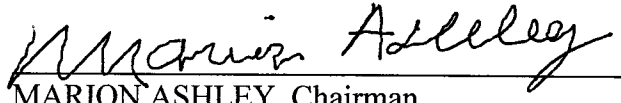
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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



JASON E. UHLEY
General Manager-Chief Engineer



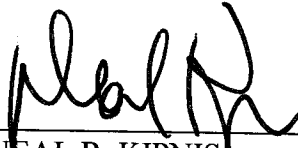
MARION ASHLEY, Chairman
Board of Supervisors, Riverside County Flood
Control and Water Conservation District

APPROVED AS TO FORM:

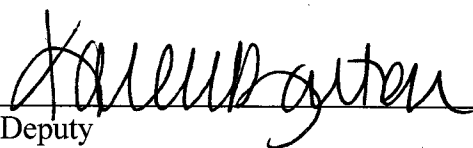
ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 

NEAL R. KIPNIS
Deputy County Counsel

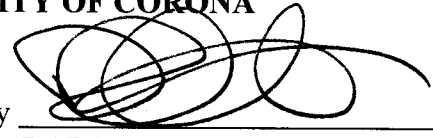
By 

Deputy

(SEAL)

License Agreement w/ City of Corona
Oak Street Channel, Stage 1
Concurrent with Encroachment Permit No. 3569
Project No. 2-0-00070
RKM:blm
07/26/17

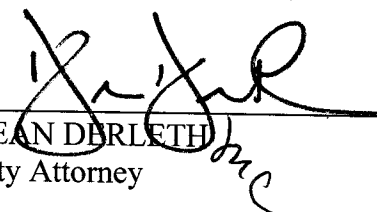
CITY OF CORONA




By _____
DARRELL TALBERT
City Manager

APPROVED AS TO FORM:

ATTEST:

By  _____
DEAN DERLETH
City Attorney

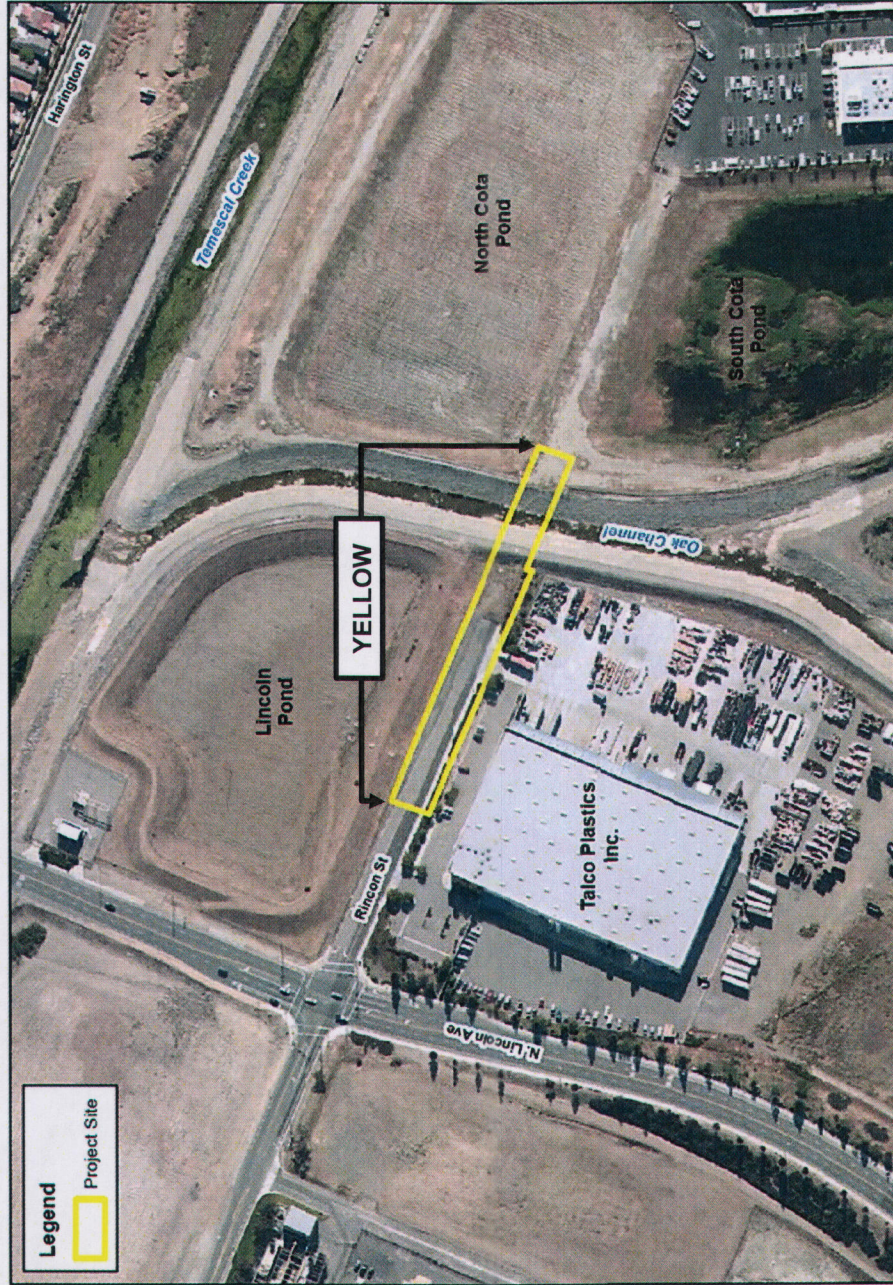
By  _____
LISA MOBLEY
City Clerk

(SEAL)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

License Agreement w/ City of Corona
Oak Street Channel, Stage 1
Concurrent with Encroachment Permit No. 3569
Project No. 2-0-00070
RKM:blm
07/26/17

Exhibit A



LICENSE AGREEMENT
Oak Street Channel, Stage 1
Concurrent with Encroachment Permit No. 3569
Project No. 2-0-00070
Page 1 of 1