

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



ITEM: 11.1
(ID # 20521)

MEETING DATE:

Tuesday, December 06, 2022

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of License Agreement Between the Riverside County Flood Control and Water Conservation District and the City of Palm Springs for the Ramon Road Widening Project (Bridge Improvements) at Whitewater River – Right Bank Levee, Encroachment Permit No. 3382, Nothing Further is Required Under CEQA, District 4. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that nothing further is required under the California Environmental Quality Act (CEQA) for approval of this License Agreement because all potentially significant environmental effects have been adequately analyzed in the Initial Study/Mitigated Negative Declaration (SCH No. 2014031055), adopted by the Lead Agency (City of Palm Springs) on May 7, 2014;
2. Approve the License Agreement between the Riverside County Flood Control and Water Conservation District ("District") and the City of Palm Springs ("City");
3. Authorize the Chair of the District's Board of Supervisors to execute the License Agreement on behalf of the District;
4. Authorize the General Manager-Chief Engineer, at his sole discretion, to terminate the License Agreement in accordance with the terms and conditions of the License Agreement; and
5. Direct the Clerk of the Board to return two (2) executed License Agreements to the District.

ACTION:Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 11/15/2022

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Hewitt, and Perez
Nays: None
Absent: None
Date: December 6, 2022
xc: Flood

Kecia R. Harper
Clerk of the Board

By:
Deputy

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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: The City of Palm Springs is funding all construction and inspection costs (100%)			Budget Adjustment: No	
			For Fiscal Year: N/A	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

This License Agreement ("Agreement") sets forth the terms and conditions by which the District will allow the City of Palm Springs to construct the bridge and its associated appurtenances within the Whitewater River – Right Bank Levee's rights of way. The District and the City will inspect, operate and maintain the bridge and associated appurtenances within its respective rights of way.

The bridge will not conflict with the levee's primary function or the District's continued operation and maintenance of the facilities. The District, in accordance with the terms of the License Agreement, will grant the dual use of the right of way to the City. Upon completion of construction, the City will assume ownership and responsibility for the operation and maintenance of the portion of the bridge and associated appurtenances located within its respective rights of way. The District will assume operation and maintenance of the transverse and longitudinal cutoff walls upstream and downstream of bridge.

County Counsel has approved the Agreement as to legal form, and the City of Palm Springs has executed the Agreement.

Environmental Findings

Pursuant to Section 15096 of the CEQA Guidelines, Making Responsible Agency Findings, the District has considered the Initial Study/Mitigated Negative Declaration (IS/MND) that was prepared by the City of Palm Springs for the Ramon Road Widening Project (SCH No. 2014031055). The District, in its limited capacity as a Responsible Agency, finds that operation and maintenance activities associated with the Ramon Road Widening Project as described in the License Agreement was adequately considered in the IS/MND. The District finds that approval and execution of the License Agreement, which grants dual use of District right of way for Whitewater Wash to the City of Palm Springs to conduct operation and maintenance activities within its respective rights of way, will not have a significant impact on the environment. Therefore, no further analysis is required under CEQA.

Impact on Residents and Businesses

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This project is required by the City of Palm Springs to accommodate traffic volume. The residents and businesses within the City are the primary beneficiaries of the proposed bridge project.

Additional Fiscal Information

The City of Palm Springs is funding all construction and inspection costs. The operation and maintenance costs associated with the public use components of the bridge will be borne by the City. The operation and maintenance of the existing flood control facility will continue to be a District responsibility.

ATTACHMENT:

1. Vicinity Map
2. License Agreement

AMR:blm
P8/246876



Jason Farin, Principal Management Analyst 11/29/2022



Aaron Gettis, Deputy County Counsel 11/22/2022

LICENSE AGREEMENT
Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Ramon Road Widening Project
Encroachment Permit No. 3382

This License Agreement ("License Agreement"), dated as of Dec. 16, 2022, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body corporate and politic, ("LICENSOR") and the City of Palm Springs, a municipal corporation ("LICENSEE"). LICENSOR and LICENSEE are hereinafter collectively referred to as the "Parties" or individually as "Party".

RECITALS

A. LICENSOR is the owner of Whitewater River - Right Bank Levee, Stages 1 and 2, Project No. 6-0-00250, principally located in the cities of Palm Springs and Cathedral City, identified as District Parcel Numbers 6250-7 and 6250-9, hereinafter called "WHITEWATER RIVER", shown in concept in orange on Exhibit "A", attached hereto and made part hereof; and

B. WHITEWATER RIVER is an essential and integral part of DISTRICT's regional system of stormwater management infrastructure that provides critical flood control and drainage to the cities of Cathedral City and Palm Springs, and adjacent unincorporated areas; and

C. WHITEWATER RIVER is located within LICENSOR's existing easements and rights of way, hereinafter called "LICENSOR RIGHTS OF WAY"; and

D. LICENSEE desires to construct: (i) WHITEWATER RIVER Improvements within Ramon Road from approximately Station 9+33.38 to Station 10+53.08 (the "LEVEE IMPROVEMENTS"), as shown on LICENSOR's Drawing No. 6-0319, and located in LICENSOR's Watershed Analytics Division (Attn: Reproduction Section), (ii) concrete lining along the side slopes and bottom of channel and extend toe of existing slope lining (the "CHANNEL SLOPE IMPROVEMENTS"), (iii) transverse and longitudinal cutoff walls

upstream and downstream of bridge (the "AUXILIARY STRUCTURES"), bridge pier walls to support bridge superstructure (the "PIER WALL IMPROVEMENTS"), and (iv) re-grading of the existing channel ("CHANNEL GRADING"). Together, LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, AUXILIARY STRUCTURES, PIER WALL IMPROVEMENTS and CHANNEL GRADING are hereinafter called ("BRIDGE"), as shown in concept in blue, green and red on Exhibit "B", attached hereto and made a part hereof; and

E. LICENSOR desires to operate and maintain the AUXILIARY STRUCTURES, as shown in concept in blue on Exhibit "B"; and

F. BRIDGE and its associated roadway improvements are required by the cities of Palm Springs and Cathedral City to accommodate traffic volume. Therefore, due to the widening of BRIDGE and its proposed roadway improvements, WHITEWATER RIVER will need to be improved to protect BRIDGE from scour; and

G. LICENSEE desires to utilize portions of LICENSOR RIGHTS OF WAY, with said portions hereinafter collectively called "LICENSE AREA", as shown in concept in yellow on Exhibit "B"; and

H. WHITEWATER RIVER flood control function is sporadic in nature and thus, construction and operation of BRIDGE may be accommodated within LICENSE AREA to the extent that such uses do not unreasonably interfere with LICENSE AREA's principal function or LICENSOR's ability to operate and maintain WHITEWATER RIVER; and

I. Subject to the provisions of this License Agreement, LICENSOR is willing to (i) allow LICENSEE to cause the construction of BRIDGE within LICENSE AREA, and (ii) allow LICENSEE to operate and maintain the portion of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL

GRADING located within its right of way, as shown in green on Exhibit "B", including the CV link Trail underneath BRIDGE within Ramon Road rights of way; and

J. In accordance with the provisions of this License Agreement, LICENSEE will (i) prepare, or cause to be prepared, plans and specifications for BRIDGE and submit to LICENSOR for its review and written approval, which shall not be unreasonably withheld, (ii) cause the construction, inspection, repair of BRIDGE at no cost to LICENSOR, (iii) conduct periodic safety inspections of BRIDGE, (iv) accept ownership and responsibility for the structural integrity of BRIDGE, (v) accept operation and maintenance of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL GRADING, and (vi) indemnify, defend, and hold LICENSOR harmless from any claims arising from LICENSEE's or the public's use of BRIDGE or from LICENSEE's responsibilities in connection therewith or the condition thereof; and

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

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

SECTION I

LICENSEE shall:

1. Pursuant to the California Environmental Quality Act ("CEQA"), continue to act in the Lead Agency role and be responsible for preparation, circulation and adoption of all necessary and appropriate CEQA documents pertaining to (i) construction, operation, repair, and maintenance of BRIDGE and (ii) operation, repair, and maintenance of BRIDGE.

2. Prior to constructing any improvements on, or performing any physical modifications within, LICENSE AREA, prepare or cause to be prepared plans and specifications

for BRIDGE ("IMPROVEMENT PLANS") and submit to LICENSOR (Attention: Plan Check Section) for review and approval.

3. Pay all reasonable costs associated with preparation of IMPROVEMENT PLANS including LICENSOR's review and approval thereof.

4. Pay all reasonable costs associated with LICENSOR's preparation and administration of this License Agreement.

5. Secure, at its sole costs and expense, all necessary permits, approvals, licenses or agreements as may be required by any federal, state or local resource or regulatory agencies, as may be needed to construct, inspect, operate and maintain BRIDGE.

6. Obtain an encroachment permit from LICENSOR (Attention: Plan check Section), pursuant to its rules and regulations and comply with all provisions set forth therein, prior to commencing construction of BRIDGE or any other improvements within LICENSOR RIGHTS OF WAY.

7. Prior to commencing construction of BRIDGE within LICENSE AREA, furnish LICENSOR with copies of all permits, approvals or agreements as may be required by any federal, state or local resource and/or regulatory agencies for the construction, operation, inspection, and maintenance of BRIDGE. Such documents include but are not limited to those issued by the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California Department of Fish and Wildlife, the State Water Resources Control Board, and the Coachella Valley Conservation Commission (the "REGULATORY PERMITS").

8. Assume sole responsibility for compliance with the requirements of all REGULATORY PERMITS, including any amendments thereto, pertaining to the construction, operation, inspection, and maintenance of BRIDGE.

9. Take reasonable action to ensure that REGULATORY PERMITS, including any subsequent renewal or amendments thereto, will not (i) unreasonably impede LICENSOR's ability to perform all necessary operation and maintenance activities for WHITEWATER RIVER as determined by LICENSOR, or (ii) include any stipulations that would result in additional mitigation obligations being placed upon LICENSOR for maintenance operations within LICENSOR RIGHTS OF WAY.

10. Cause BRIDGE to be constructed in LICENSE AREA, in accordance with IMPROVEMENT PLANS approved by LICENSOR, and pay all costs associated therewith.

11. Provide LICENSOR with a reproducible duplicate copy of final record drawings.

12. Not permit any change to, or modification of, LICENSOR permitted IMPROVEMENT PLANS without the prior written permission and consent of LICENSOR, which shall not be unreasonably withheld.

13. Assume sole responsibility for (i) the design, construction, inspection, of BRIDGE, (ii) the repair of BRIDGE, (iii) the operation and maintenance of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL GRADING, including all necessary modifications, repairs, corrections or temporary removal as reasonably deemed necessary by LICENSOR for the continuing function, reconstruction, repair or operation and maintenance of the WHITEWATER RIVER facility.

14. Within LICENSOR RIGHTS OF WAY, (i) assume sole responsibility for the operation and maintenance of all LICENSEE constructed improvements, including but not limited to, performing all necessary repairs and the routine removal of trash and debris associated with LICENSEE's and public's use of LICENSOR RIGHTS OF WAY, (ii) assume sole responsibility for the structural integrity of BRIDGE, and (iii) as between LICENSOR and

LICENSEE, assume all liability associated with the public use of LICENSOR RIGHTS OF WAY including claims of third persons for injury or death or damage to property, subject to any defenses and immunities LICENSEE may have in response to such third party claims. Said obligation shall not include any inverse condemnation liability of LICENSOR by reason of the location of WHITEWATER RIVER or BRIDGE improvements thereto unless such liability is the result of LICENSEE's operations or use of the property by the public pursuant to LICENSEE's actual or tacit consent.

15. Protect the safety of the public who may utilize BRIDGE by conducting periodic safety inspections and promptly making repairs that are necessary to safeguard the public and its use thereof.

16. Promptly repair any damage to BRIDGE resulting from LICENSEE's or the public's use of LICENSOR RIGHTS OF WAY under the license granted herein unless such damage is caused by flooding, or is the result of LICENSOR's customary operation, maintenance or improvements to its facilities located therein.

17. Waive any claim against LICENSOR for damages to BRIDGE resulting from LICENSOR's customary operation and maintenance activities performed within LICENSOR RIGHTS OF WAY or its appurtenant works, including any natural calamity, act of God, or any cause or conditions beyond the control of LICENSOR, save and except damages resulting from LICENSOR's active negligence or willful misconduct.

18. Immediately remove, upon written request by LICENSOR's General Manager-Chief Engineer, any improvements and/or equipment not previously approved by LICENSOR or cease use where LICENSEE has installed any such improvements and/or equipment or LICENSEE has used or allowed use of LICENSOR RIGHTS OF WAY in a manner which, in the reasonable opinion of LICENSOR's General Manager-Chief Engineer; would be

detrimental to the operation of WHITEWATER RIVER. If LICENSOR invokes this provision, it shall be required to communicate a detailed explanation of the basis for its determination that BRIDGE has become detrimental to the operation of LEVEE in writing to LICENSEE and shall be required to meet and confer with LICENSEE's designated representatives prior to finalizing such opinion.

19. If in the opinion of the General Manager-Chief Engineer, LICENSEE's or the public's use of LEVEE RIGHT OF WAY may cause or contribute to a public hazard, a public nuisance, degradation of water quality or any other matter of substantial concern to LICENSOR, LICENSOR reserves the right to reasonably require remediation and, if remediation is unsuccessful, to terminate this License Agreement.

20. Indemnify and hold harmless LICENSOR, its directors, officers, Board of Supervisors, elected and appointed officials, agents, employees, representatives, independent contractors and subcontractors (collectively "INDEMNIFIED PARTIES") from any liability whatsoever, based or asserted upon any act or omission of LICENSEE, its officers, employees, subcontractors, agents or representatives, arising from, related to or in any manner connected with LICENSEE's use and responsibilities in connection therewith of LICENSOR RIGHTS OF WAY or the condition thereof including, but not limited to, property damage, bodily injury or death or any other element of any kind or nature whatsoever arising from, related to, or in any manner connected with the public use of LICENSOR RIGHTS OF WAY. LICENSEE shall defend, at its sole expense, all costs and fees including, but not limited to, attorneys' fees, cost of investigation, defense and settlements or awards, INDEMNIFIED PARTIES in any claim or legal action based upon such alleged acts or omissions.

21. With respect to any action or claim subject to indemnification herein by LICENSEE, LICENSEE shall, at their sole cost, have the right to use counsel of their own choice

and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of LICENSOR; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes LICENSEE's indemnification to INDEMNIFIED PARTIES as set forth herein. LICENSEE's obligation hereunder shall be satisfied when LICENSEE has provided to INDEMNIFIED PARTIES the appropriate form of dismissal relieving INDEMNIFIED PARTIES from any liability for the action or claim involved. The specified insurance limits required in this License Agreement shall in no way limit or circumscribe LICENSEE's obligations to indemnify and hold harmless INDEMNIFIED PARTIES herein from third party claims.

22. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve LICENSEE from indemnifying INDEMNIFIED PARTIES to the fullest extent allowed by law.

23. This indemnification provision shall survive termination or expiration of this License Agreement until such a time as the statute of limitations shall run for any claims that may arise out of this License Agreement.

SECTION II

LICENSOR shall:

1. Act as a responsible agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
2. Review, comment and approve, as appropriate, IMPROVEMENT PLANS prior to the start of constructing any improvements on, or performing any physical modifications within, LICENSE AREA.

3. Review, comment and approve, as appropriate on all REGULATORY PERMITS, including any subsequent renewal or amendments thereto, prior to final execution or acceptance by LICENSEE.

4. Upon LICENSOR approval of IMPROVEMENT PLANS and REGULATORY PERMITS, issue an encroachment permit to LICENSEE for the construction of BRIDGE, and the operation and maintenance of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, BRIDGE IMPROVEMENTS and CHANNEL GRADING in accordance with LICENSOR approved IMPROVEMENT PLANS and subject to the provisions set forth in LICENSOR's Encroachment Permit.

5. Grant LICENSEE a revocable license to utilize LICENSE AREA for public purposes, provided that LICENSEE's activities do not, in any way whatsoever, unduly compromise WHITEWATER RIVER's primary flood control purpose and function or otherwise interfere with LICENSOR's ability to operate, maintain, repair or reconstruct WHITEWATER RIVER or any appurtenant works. Said license may be revoked by LICENSOR in the event that said uses, in the reasonable discretion of LICENSOR's General Manager-Chief Engineer, unduly compromise WHITEWATER RIVER's primary flood control purpose and function or interfere with LICENSOR's ability to operate and maintain WHITEWATER RIVER.

6. Inspect BRIDGE construction, as appropriate.

7. Provide LICENSEE with written notice of (i) any non-compatible use or condition that is not in conformity with the provisions of this License Agreement, or (ii) any condition which, in the reasonable opinion of LICENSOR's General Manager-Chief Engineer, could adversely affect the primary flood control function of LEVEE or LICENSOR's ability to operate and maintain WHITEWATER RIVER, and grant LICENSEE ten (10) days from and after such notice to correct any such nonconforming use or condition.

8. Continue to maintain WHITEWATER RIVER's structural integrity, including but not limited to lines and grades, inlets, fencing and ramps to such an extent that WHITEWATER RIVER continues to function as a flood control facility at its design level.

9. Assume responsibility of the operation and maintenance of AUXILIARY STRUCTURES.

10. Assume no responsibility, obligation, or liability whatsoever, for (i) the design, construction, inspection, repair, of BRIDGE, (ii) operation and maintenance of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL GRADING, or (iii) LICENSEE's or public's use of LICENSOR RIGHTS OF WAY as granted herein, unless done so expressly in writing approved by both parties as an amendment or addendum to this License Agreement.

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

SECTION III

It is further mutually agreed:

1. The term of this License Agreement shall commence on the date this License Agreement is executed by all parties hereto and shall continue thereafter, unless and until terminated in accordance with the provisions of this License Agreement

2. LICENSOR reserves the right to terminate this License Agreement and any encroachment permit issued thereto if, for any reason whatsoever, LICENSOR's General Manager-Chief Engineer reasonably determines that LICENSEE's or the public's use of LICENSOR RIGHTS OF WAY is not compatible with WHITEWATER RIVER primary flood control purpose or function.

3. BRIDGE shall, at all times, remain under the sole ownership and exclusive responsibility of LICENSEE. Nothing herein shall be construed as creating any obligation or responsibility on the part of LICENSOR to inspect, or warranty BRIDGE, or operate, maintain LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL GRADING.

4. Except as otherwise provided herein, all construction work associated with BRIDGE shall be inspected by LICENSEE and shall not be deemed complete until approved and accepted as complete by LICENSEE.

5. LICENSOR personnel may observe and inspect all work being done on BRIDGE. It is further mutually agreed by the parties hereto that any quality control comments from LICENSOR regarding said work shall be provided in writing to shall be provided to LICENSEE personnel who, as LICENSEE's construction contract administrator, shall be solely responsible for all official communications with its construction contractor(s).

6. As a condition to this License Agreement, without limiting or diminishing LICENSEE's obligation to indemnify or hold INDEMNIFIED PARTIES harmless, LICENSEE shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this License Agreement. As respects to the insurance section, LICENSOR herein refers to the Riverside County Flood Control and Water Conservation District, the County of Riverside, its agencies, districts, special districts and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

- a. Workers' Compensation. If LICENSEE has employees as defined by the State of California, LICENSEE shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the

State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than **\$1,000,000** per person per accident. The policy shall be endorsed to waive subrogation in favor of LICENSOR and the County of Riverside.

- b. Commercial General Liability. Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of LICENSEE's performance of its obligations hereunder. Policy shall name the Riverside County Flood Control and Water Conservation District, the County of Riverside, its agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than **\$2,000,000** per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this License 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 License 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 License Agreement or be

no less than two (2) times the occurrence limit. Policy shall name the Riverside County Flood Control and Water Conservation District, the County of Riverside, its agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

d. General Insurance Provisions - All lines.

- i. 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 County of Riverside Risk Manager. If the County of Riverside Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- ii. 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 County of Riverside Risk Manager before the commencement of use and operations under this License Agreement. Upon notification of deductibles or self-insured retentions unacceptable to LICENSOR, and at the election of the County of Riverside Risk Manager, LICENSEE's carriers shall either: 1) reduce or eliminate such deductibles or self-insured

retentions as respects this License Agreement with LICENSOR, or
2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

iii. LICENSEE shall cause LICENSEE's insurance carrier(s) to furnish LICENSOR with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, or 2) if requested to do so orally or in writing by the County of Riverside Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to LICENSOR prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If LICENSEE's insurance carrier(s) do(es) not meet the minimum notice requirement found herein, LICENSEE shall cause LICENSEE's insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.

iv. In the event of a material modification, cancellation, expiration, or reduction in coverage, this License Agreement shall terminate forthwith, unless LICENSOR receives, prior to such effective date, another properly executed original Certificate of Insurance and

original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages set forth herein and the insurance required herein is in full force and effect. *LICENSEE shall not commence entry onto LICENSE AREA until LICENSOR has been furnished original Certificate(s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance. LICENSOR reserves the right to require complete certified copies of all policies of LICENSEE's contractors and subcontractors, at any time.*

- v. 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 LICENSOR's and the County of Riverside's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- vi. If, during the term of this License Agreement or any extension thereof, there is a material change in the scope of the License Agreement; 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), LICENSOR reserves the right to adjust the types of insurance required under this License Agreement and the monetary limits of liability for the insurance coverages currently required herein, if in the County of Riverside Risk Manager's reasonable judgment, the amount or type of insurance carried by LICENSEE has become inadequate.

- vii. LICENSEE shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this License Agreement.
- viii. The insurance requirements contained in this License Agreement may be met with a program(s) of self-insurance acceptable to LICENSEE.

7. This License Agreement is to be construed in accordance with the laws of the State of California.

8. If any provision of this License Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall be declared severable and shall be given full force and effect to the fullest extent possible. It is expressly understood that this License Agreement is not exclusive and does not in any way whatsoever grant or convey any permanent easement, lease, fee or other real property interest in WHITEWATER RIVER to LICENSEE.

9. This License Agreement is subordinate to all prior and future rights of LICENSOR in WHITEWATER RIVER and the use of WHITEWATER RIVER for the purposes in which it was acquired.

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

11. This License Agreement is made for the benefit of the parties to this License Agreement and their respective successors and assigns, and except as provided in Section III.19., no other persons or entity may have or acquire any right by virtue of this License Agreement.

12. LICENSEE shall not permit to be placed against WHITEWATER RIVER or any part thereof, any design professionals', mechanics', material man's, contractors' or subcontractors' liens with the regard to LICENSEE's actions upon WHITEWATER RIVER agrees to hold LICENSOR harmless for any loss or expense, including reasonable attorneys' fee, arising from any such liens which might be filed against WHITEWATER RIVER caused by LICENSEE.

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

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Encroachment Permits Section

CITY OF PALM SPRINGS
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: Joel Montalvo

14. Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided for by this License Agreement, shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.

15. The parties hereto shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. LICENSEE shall proceed diligently with the performance of this License Agreement pending the resolution of a dispute. Prior to the filing of any legal action related to this License Agreement, the parties shall be obligated to attend a mediation session with a neutral third-party mediator agreeable to both parties in the County of Riverside. The parties shall share the cost of mediation.

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

17. Any waiver by LICENSOR or by LICENSEE 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 LICENSOR or LICENSEE 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 LICENSOR or LICENSEE from enforcement hereof.

18. This License Agreement is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith. This License Agreement may be changed or modified only upon the written consent of the parties hereto.

19. This License Agreement shall not be assigned by either Party, in whole or in part, without the prior written consent of the other Party.

20. This License Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this License Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this License Agreement. The Parties further agree that the electronic signatures of the Parties included in this License Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to CUETA as amended from time to time. CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the Party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

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

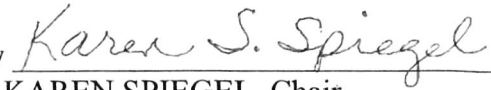
12/6/22

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By 
JASON E. UHLEY
General Manager-Chief Engineer


By 
KAREN SPIEGEL, Chair
Board of Supervisors, Riverside County Flood
Control and Water Conservation District


APPROVED AS TO FORM:

ATTEST:

COUNTY COUNSEL

KECIA R. HARPER
Clerk of the Board

By 
WESLEY W. STANFIELD
Deputy County Counsel

By 
Deputy

(SEAL)

Ramon Road Widening Project
Encroachment Permit No. 3382
License Agreement with City of Palm Springs
AMR:blm
10/13/22

CITY OF PALM SPRINGS

By _____
JUSTIN CLIFTON
City Manager

APPROVED AS TO FORM:

ATTEST:

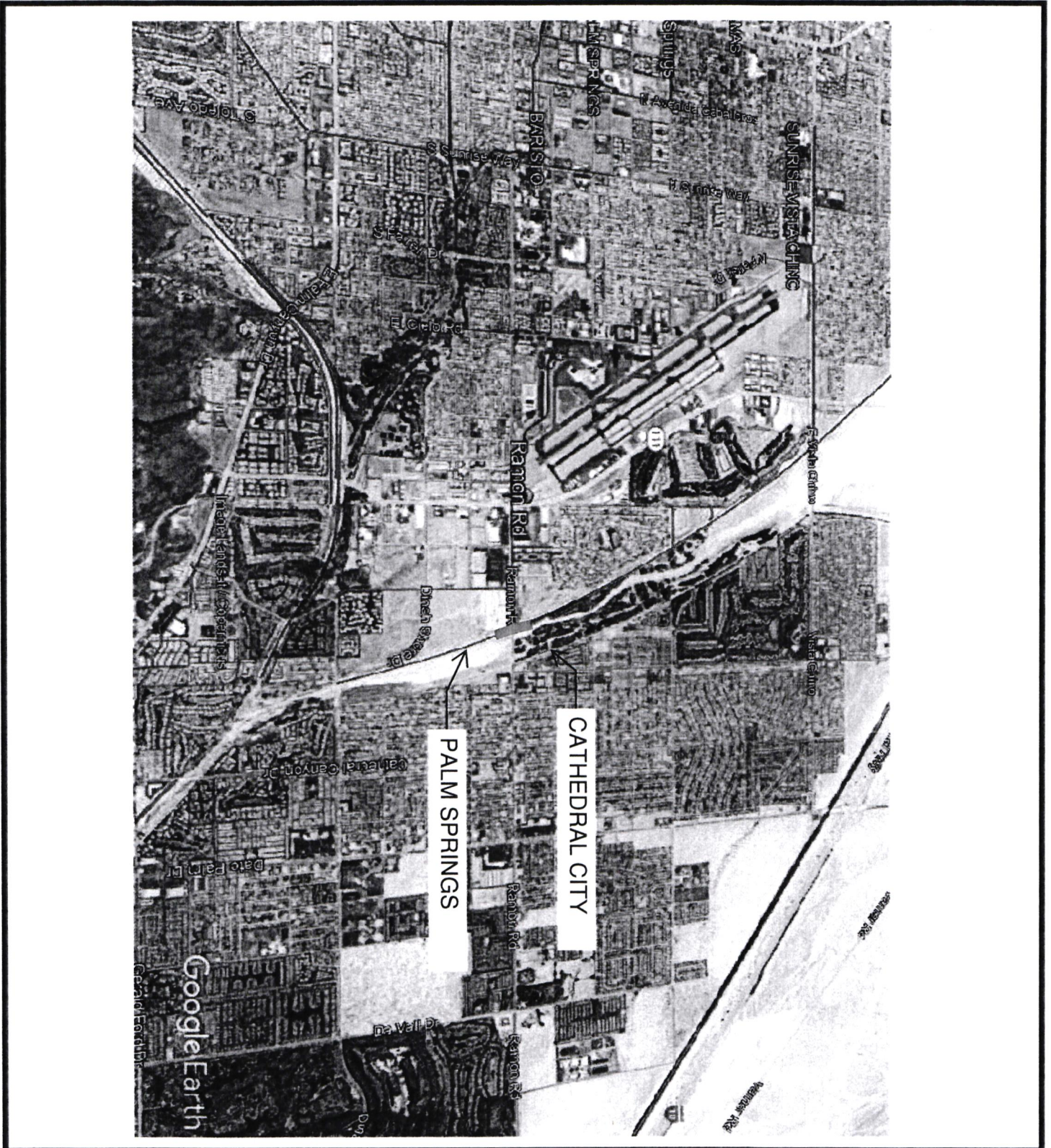
By _____
JEFFREY BALLINGER
City Attorney

By _____
ANTHONY J. MEJIA, MMC
City Clerk

(SEAL)

Ramon Road Widening Project
Encroachment Permit No. 3382
License Agreement with City of Palm Springs
AMR:blm
10/13/22

Exhibit A



RCFC&WCD & CITY OF PALM SPRINGS MAINTENANCE EXHIBIT

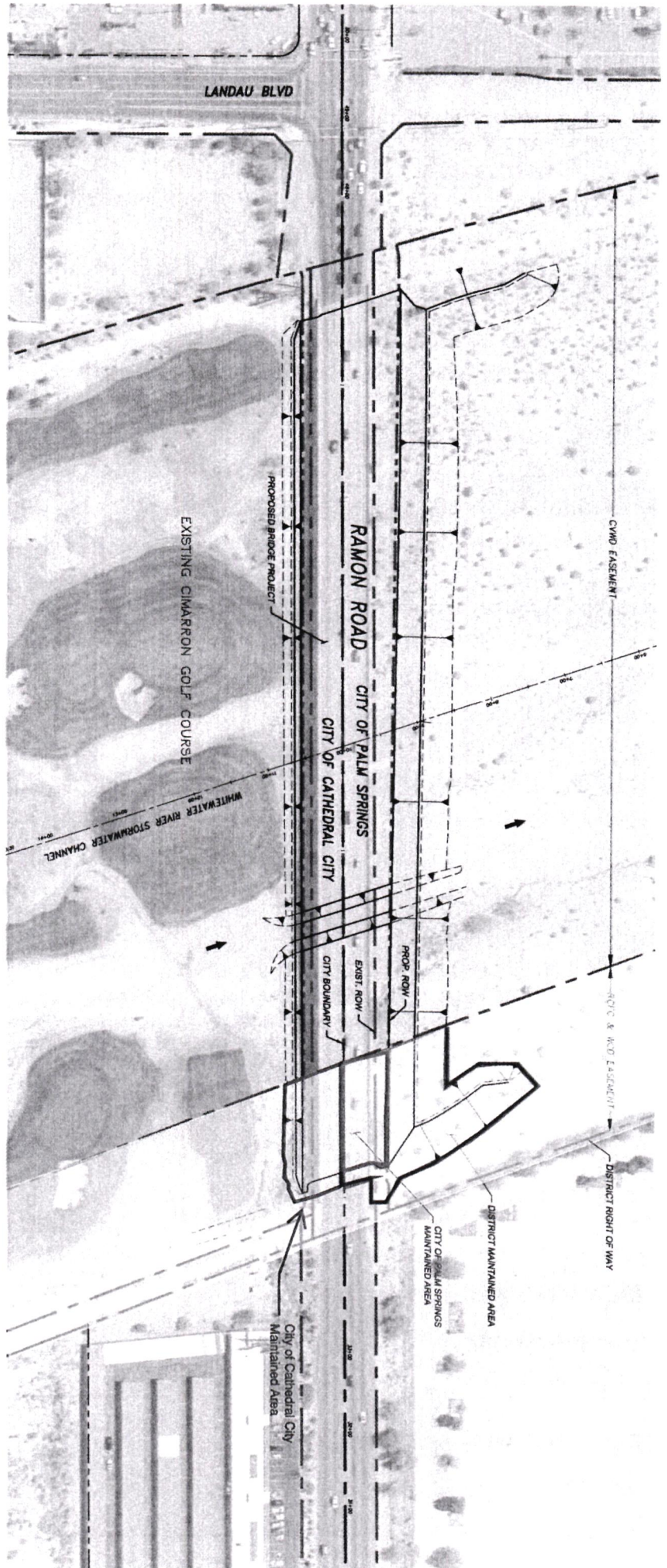
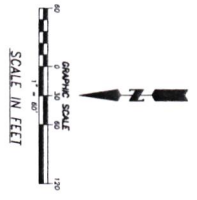


EXHIBIT B
LICENSE AGREEMENT
WHITewater RIVER
CASE NO. MS145
ENCROACHMENT PERMIT NO. 6-0-00250-3382
PAGE 1 OF 1



LICENSE AGREEMENT
Riverside County Clerk of the Board, Stop 1010
Ramon Road Widening Project
Post Office Box 1147, Riverside, Ca 92502-1147
Encroachment Permit No. 3382

This License Agreement ("License Agreement"), dated as of Dec. 6, 2022, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body corporate and politic, ("LICENSOR") and the City of Palm Springs, a municipal corporation ("LICENSEE"). LICENSOR and LICENSEE are hereinafter collectively referred to as the "Parties" or individually as "Party".

RECITALS

A. LICENSOR is the owner of Whitewater River - Right Bank Levee, Stages 1 and 2, Project No. 6-0-00250, principally located in the cities of Palm Springs and Cathedral City, identified as District Parcel Numbers 6250-7 and 6250-9, hereinafter called "WHITEWATER RIVER", shown in concept in orange on Exhibit "A", attached hereto and made part hereof; and

B. WHITEWATER RIVER is an essential and integral part of DISTRICT's regional system of stormwater management infrastructure that provides critical flood control and drainage to the cities of Cathedral City and Palm Springs, and adjacent unincorporated areas; and

C. WHITEWATER RIVER is located within LICENSOR's existing easements and rights of way, hereinafter called "LICENSOR RIGHTS OF WAY"; and

D. LICENSEE desires to construct: (i) WHITEWATER RIVER Improvements within Ramon Road from approximately Station 9+33.38 to Station 10+53.08 (the "LEVEE IMPROVEMENTS"), as shown on LICENSOR's Drawing No. 6-0319, and located in LICENSOR's Watershed Analytics Division (Attn: Reproduction Section), (ii) concrete lining along the side slopes and bottom of channel and extend toe of existing slope lining (the "CHANNEL SLOPE IMPROVEMENTS"), (iii) transverse and longitudinal cutoff walls

upstream and downstream of bridge (the "AUXILIARY STRUCTURES"), bridge pier walls to support bridge superstructure (the "PIER WALL IMPROVEMENTS"), and (iv) re-grading of the existing channel ("CHANNEL GRADING"). Together, LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, AUXILIARY STRUCTURES, PIER WALL IMPROVEMENTS and CHANNEL GRADING are hereinafter called ("BRIDGE"), as shown in concept in blue, green and red on Exhibit "B", attached hereto and made a part hereof; and

E. LICENSOR desires to operate and maintain the AUXILIARY STRUCTURES, as shown in concept in blue on Exhibit "B"; and

F. BRIDGE and its associated roadway improvements are required by the cities of Palm Springs and Cathedral City to accommodate traffic volume. Therefore, due to the widening of BRIDGE and its proposed roadway improvements, WHITEWATER RIVER will need to be improved to protect BRIDGE from scour; and

G. LICENSEE desires to utilize portions of LICENSOR RIGHTS OF WAY, with said portions hereinafter collectively called "LICENSE AREA", as shown in concept in yellow on Exhibit "B"; and

H. WHITEWATER RIVER flood control function is sporadic in nature and thus, construction and operation of BRIDGE may be accommodated within LICENSE AREA to the extent that such uses do not unreasonably interfere with LICENSE AREA's principal function or LICENSOR's ability to operate and maintain WHITEWATER RIVER; and

I. Subject to the provisions of this License Agreement, LICENSOR is willing to (i) allow LICENSEE to cause the construction of BRIDGE within LICENSE AREA, and (ii) allow LICENSEE to operate and maintain the portion of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL

GRADING located within its right of way, as shown in green on Exhibit "B", including the CV link Trail underneath BRIDGE within Ramon Road rights of way; and

J. In accordance with the provisions of this License Agreement, LICENSEE will (i) prepare, or cause to be prepared, plans and specifications for BRIDGE and submit to LICENSOR for its review and written approval, which shall not be unreasonably withheld, (ii) cause the construction, inspection, repair of BRIDGE at no cost to LICENSOR, (iii) conduct periodic safety inspections of BRIDGE, (iv) accept ownership and responsibility for the structural integrity of BRIDGE, (v) accept operation and maintenance of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL GRADING, and (vi) indemnify, defend, and hold LICENSOR harmless from any claims arising from LICENSEE's or the public's use of BRIDGE or from LICENSEE's responsibilities in connection therewith or the condition thereof; and

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

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

SECTION I

LICENSEE shall:

1. Pursuant to the California Environmental Quality Act ("CEQA"), continue to act in the Lead Agency role and be responsible for preparation, circulation and adoption of all necessary and appropriate CEQA documents pertaining to (i) construction, operation, repair, and maintenance of BRIDGE and (ii) operation, repair, and maintenance of BRIDGE.

2. Prior to constructing any improvements on, or performing any physical modifications within, LICENSE AREA, prepare or cause to be prepared plans and specifications

for BRIDGE ("IMPROVEMENT PLANS") and submit to LICENSOR (Attention: Plan Check Section) for review and approval.

3. Pay all reasonable costs associated with preparation of IMPROVEMENT PLANS including LICENSOR's review and approval thereof.

4. Pay all reasonable costs associated with LICENSOR's preparation and administration of this License Agreement.

5. Secure, at its sole costs and expense, all necessary permits, approvals, licenses or agreements as may be required by any federal, state or local resource or regulatory agencies, as may be needed to construct, inspect, operate and maintain BRIDGE.

6. Obtain an encroachment permit from LICENSOR (Attention: Plan check Section), pursuant to its rules and regulations and comply with all provisions set forth therein, prior to commencing construction of BRIDGE or any other improvements within LICENSOR RIGHTS OF WAY.

7. Prior to commencing construction of BRIDGE within LICENSE AREA, furnish LICENSOR with copies of all permits, approvals or agreements as may be required by any federal, state or local resource and/or regulatory agencies for the construction, operation, inspection, and maintenance of BRIDGE. Such documents include but are not limited to those issued by the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California Department of Fish and Wildlife, the State Water Resources Control Board, and the Coachella Valley Conservation Commission (the "REGULATORY PERMITS").

8. Assume sole responsibility for compliance with the requirements of all REGULATORY PERMITS, including any amendments thereto, pertaining to the construction, operation, inspection, and maintenance of BRIDGE.

9. Take reasonable action to ensure that REGULATORY PERMITS, including any subsequent renewal or amendments thereto, will not (i) unreasonably impede LICENSOR's ability to perform all necessary operation and maintenance activities for WHITEWATER RIVER as determined by LICENSOR, or (ii) include any stipulations that would result in additional mitigation obligations being placed upon LICENSOR for maintenance operations within LICENSOR RIGHTS OF WAY.

10. Cause BRIDGE to be constructed in LICENSE AREA, in accordance with IMPROVEMENT PLANS approved by LICENSOR, and pay all costs associated therewith.

11. Provide LICENSOR with a reproducible duplicate copy of final record drawings.

12. Not permit any change to, or modification of, LICENSOR permitted IMPROVEMENT PLANS without the prior written permission and consent of LICENSOR, which shall not be unreasonably withheld.

13. Assume sole responsibility for (i) the design, construction, inspection, of BRIDGE, (ii) the repair of BRIDGE, (iii) the operation and maintenance of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL GRADING, including all necessary modifications, repairs, corrections or temporary removal as reasonably deemed necessary by LICENSOR for the continuing function, reconstruction, repair or operation and maintenance of the WHITEWATER RIVER facility.

14. Within LICENSOR RIGHTS OF WAY, (i) assume sole responsibility for the operation and maintenance of all LICENSEE constructed improvements, including but not limited to, performing all necessary repairs and the routine removal of trash and debris associated with LICENSEE's and public's use of LICENSOR RIGHTS OF WAY, (ii) assume sole responsibility for the structural integrity of BRIDGE, and (iii) as between LICENSOR and

LICENSEE, assume all liability associated with the public use of LICENSOR RIGHTS OF WAY including claims of third persons for injury or death or damage to property, subject to any defenses and immunities LICENSEE may have in response to such third party claims. Said obligation shall not include any inverse condemnation liability of LICENSOR by reason of the location of WHITEWATER RIVER or BRIDGE improvements thereto unless such liability is the result of LICENSEE's operations or use of the property by the public pursuant to LICENSEE's actual or tacit consent.

15. Protect the safety of the public who may utilize BRIDGE by conducting periodic safety inspections and promptly making repairs that are necessary to safeguard the public and its use thereof.

16. Promptly repair any damage to BRIDGE resulting from LICENSEE's or the public's use of LICENSOR RIGHTS OF WAY under the license granted herein unless such damage is caused by flooding, or is the result of LICENSOR's customary operation, maintenance or improvements to its facilities located therein.

17. Waive any claim against LICENSOR for damages to BRIDGE resulting from LICENSOR's customary operation and maintenance activities performed within LICENSOR RIGHTS OF WAY or its appurtenant works, including any natural calamity, act of God, or any cause or conditions beyond the control of LICENSOR, save and except damages resulting from LICENSOR's active negligence or willful misconduct.

18. Immediately remove, upon written request by LICENSOR's General Manager-Chief Engineer, any improvements and/or equipment not previously approved by LICENSOR or cease use where LICENSEE has installed any such improvements and/or equipment or LICENSEE has used or allowed use of LICENSOR RIGHTS OF WAY in a manner which, in the reasonable opinion of LICENSOR's General Manager-Chief Engineer; would be

detrimental to the operation of WHITEWATER RIVER. If LICENSOR invokes this provision, it shall be required to communicate a detailed explanation of the basis for its determination that BRIDGE has become detrimental to the operation of LEVEE in writing to LICENSEE and shall be required to meet and confer with LICENSEE's designated representatives prior to finalizing such opinion.

19. If in the opinion of the General Manager-Chief Engineer, LICENSEE's or the public's use of LEVEE RIGHT OF WAY may cause or contribute to a public hazard, a public nuisance, degradation of water quality or any other matter of substantial concern to LICENSOR, LICENSOR reserves the right to reasonably require remediation and, if remediation is unsuccessful, to terminate this License Agreement.

20. Indemnify and hold harmless LICENSOR, its directors, officers, Board of Supervisors, elected and appointed officials, agents, employees, representatives, independent contractors and subcontractors (collectively "INDEMNIFIED PARTIES") from any liability whatsoever, based or asserted upon any act or omission of LICENSEE, its officers, employees, subcontractors, agents or representatives, arising from, related to or in any manner connected with LICENSEE's use and responsibilities in connection therewith of LICENSOR RIGHTS OF WAY or the condition thereof including, but not limited to, property damage, bodily injury or death or any other element of any kind or nature whatsoever arising from, related to, or in any manner connected with the public use of LICENSOR RIGHTS OF WAY. LICENSEE shall defend, at its sole expense, all costs and fees including, but not limited to, attorneys' fees, cost of investigation, defense and settlements or awards, INDEMNIFIED PARTIES in any claim or legal action based upon such alleged acts or omissions.

21. With respect to any action or claim subject to indemnification herein by LICENSEE, LICENSEE shall, at their sole cost, have the right to use counsel of their own choice

and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of LICENSOR; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes LICENSEE's indemnification to INDEMNIFIED PARTIES as set forth herein. LICENSEE's obligation hereunder shall be satisfied when LICENSEE has provided to INDEMNIFIED PARTIES the appropriate form of dismissal relieving INDEMNIFIED PARTIES from any liability for the action or claim involved. The specified insurance limits required in this License Agreement shall in no way limit or circumscribe LICENSEE's obligations to indemnify and hold harmless INDEMNIFIED PARTIES herein from third party claims.

22. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve LICENSEE from indemnifying INDEMNIFIED PARTIES to the fullest extent allowed by law.

23. This indemnification provision shall survive termination or expiration of this License Agreement until such a time as the statute of limitations shall run for any claims that may arise out of this License Agreement.

SECTION II

LICENSOR shall:

1. Act as a responsible agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
2. Review, comment and approve, as appropriate, IMPROVEMENT PLANS prior to the start of constructing any improvements on, or performing any physical modifications within, LICENSE AREA.

3. Review, comment and approve, as appropriate on all REGULATORY PERMITS, including any subsequent renewal or amendments thereto, prior to final execution or acceptance by LICENSEE.

4. Upon LICENSOR approval of IMPROVEMENT PLANS and REGULATORY PERMITS, issue an encroachment permit to LICENSEE for the construction of BRIDGE, and the operation and maintenance of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, BRIDGE IMPROVEMENTS and CHANNEL GRADING in accordance with LICENSOR approved IMPROVEMENT PLANS and subject to the provisions set forth in LICENSOR's Encroachment Permit.

5. Grant LICENSEE a revocable license to utilize LICENSE AREA for public purposes, provided that LICENSEE's activities do not, in any way whatsoever, unduly compromise WHITEWATER RIVER's primary flood control purpose and function or otherwise interfere with LICENSOR's ability to operate, maintain, repair or reconstruct WHITEWATER RIVER or any appurtenant works. Said license may be revoked by LICENSOR in the event that said uses, in the reasonable discretion of LICENSOR's General Manager-Chief Engineer, unduly compromise WHITEWATER RIVER's primary flood control purpose and function or interfere with LICENSOR's ability to operate and maintain WHITEWATER RIVER.

6. Inspect BRIDGE construction, as appropriate.

7. Provide LICENSEE with written notice of (i) any non-compatible use or condition that is not in conformity with the provisions of this License Agreement, or (ii) any condition which, in the reasonable opinion of LICENSOR's General Manager-Chief Engineer, could adversely affect the primary flood control function of LEVEE or LICENSOR's ability to operate and maintain WHITEWATER RIVER, and grant LICENSEE ten (10) days from and after such notice to correct any such nonconforming use or condition.

8. Continue to maintain WHITEWATER RIVER's structural integrity, including but not limited to lines and grades, inlets, fencing and ramps to such an extent that WHITEWATER RIVER continues to function as a flood control facility at its design level.

9. Assume responsibility of the operation and maintenance of AUXILIARY STRUCTURES.

10. Assume no responsibility, obligation, or liability whatsoever, for (i) the design, construction, inspection, repair, of BRIDGE, (ii) operation and maintenance of LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL GRADING, or (iii) LICENSEE's or public's use of LICENSOR RIGHTS OF WAY as granted herein, unless done so expressly in writing approved by both parties as an amendment or addendum to this License Agreement.

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

SECTION III

It is further mutually agreed:

1. The term of this License Agreement shall commence on the date this License Agreement is executed by all parties hereto and shall continue thereafter, unless and until terminated in accordance with the provisions of this License Agreement

2. LICENSOR reserves the right to terminate this License Agreement and any encroachment permit issued thereto if, for any reason whatsoever, LICENSOR's General Manager-Chief Engineer reasonably determines that LICENSEE's or the public's use of LICENSOR RIGHTS OF WAY is not compatible with WHITEWATER RIVER primary flood control purpose or function.

3. BRIDGE shall, at all times, remain under the sole ownership and exclusive responsibility of LICENSEE. Nothing herein shall be construed as creating any obligation or responsibility on the part of LICENSOR to inspect, or warranty BRIDGE, or operate, maintain LEVEE IMPROVEMENTS, CHANNEL SLOPE IMPROVEMENTS, PIER WALL IMPROVEMENTS and CHANNEL GRADING.

4. Except as otherwise provided herein, all construction work associated with BRIDGE shall be inspected by LICENSEE and shall not be deemed complete until approved and accepted as complete by LICENSEE.

5. LICENSOR personnel may observe and inspect all work being done on BRIDGE. It is further mutually agreed by the parties hereto that any quality control comments from LICENSOR regarding said work shall be provided in writing to shall be provided to LICENSEE personnel who, as LICENSEE's construction contract administrator, shall be solely responsible for all official communications with its construction contractor(s).

6. As a condition to this License Agreement, without limiting or diminishing LICENSEE's obligation to indemnify or hold INDEMNIFIED PARTIES harmless, LICENSEE shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this License Agreement. As respects to the insurance section, LICENSOR herein refers to the Riverside County Flood Control and Water Conservation District, the County of Riverside, its agencies, districts, special districts and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

- a. Workers' Compensation. If LICENSEE has employees as defined by the State of California, LICENSEE shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the

State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than **\$1,000,000** per person per accident. The policy shall be endorsed to waive subrogation in favor of LICENSOR and the County of Riverside.

- b. Commercial General Liability. Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of LICENSEE's performance of its obligations hereunder. Policy shall name the Riverside County Flood Control and Water Conservation District, the County of Riverside, its agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than **\$2,000,000** per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this License 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 License 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 License Agreement or be

no less than two (2) times the occurrence limit. Policy shall name the Riverside County Flood Control and Water Conservation District, the County of Riverside, its agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

d. General Insurance Provisions - All lines.

- i. 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 County of Riverside Risk Manager. If the County of Riverside Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- ii. 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 County of Riverside Risk Manager before the commencement of use and operations under this License Agreement. Upon notification of deductibles or self-insured retentions unacceptable to LICENSOR, and at the election of the County of Riverside Risk Manager, LICENSEE's carriers shall either: 1) reduce or eliminate such deductibles or self-insured

retentions as respects this License Agreement with LICENSOR, or
2) procure a bond which guarantees payment of losses and related
investigations, claims administration, and defense costs and
expenses.

iii. LICENSEE shall cause LICENSEE's insurance carrier(s) to
furnish LICENSOR with either 1) a properly executed original
Certificate(s) of Insurance and certified original copies of
Endorsements effecting coverage as required herein, or 2) if
requested to do so orally or in writing by the County of Riverside
Risk Manager, provide original Certified copies of policies
including all Endorsements and all attachments thereto, showing
such insurance is in full force and effect. Further, said
Certificate(s) and policies of insurance shall contain the covenant
of the insurance carrier(s) that thirty (30) days written notice shall
be given to LICENSOR prior to any material modification,
cancellation, expiration or reduction in coverage of such insurance.
If LICENSEE's insurance carrier(s) do(es) not meet the minimum
notice requirement found herein, LICENSEE shall cause
LICENSEE's insurance carrier(s) to furnish a 30 day Notice of
Cancellation Endorsement.

iv. In the event of a material modification, cancellation, expiration, or
reduction in coverage, this License Agreement shall terminate
forthwith, unless LICENSOR receives, prior to such effective date,
another properly executed original Certificate of Insurance and

original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages set forth herein and the insurance required herein is in full force and effect. *LICENSEE shall not commence entry onto LICENSE AREA until LICENSOR has been furnished original Certificate(s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance. LICENSOR reserves the right to require complete certified copies of all policies of LICENSEE's contractors and subcontractors, at any time.*

- v. 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 LICENSOR's and the County of Riverside's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- vi. If, during the term of this License Agreement or any extension thereof, there is a material change in the scope of the License Agreement; 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), LICENSOR reserves the right to adjust the types of insurance required under this License Agreement and the monetary limits of liability for the insurance coverages currently required herein, if in the County of Riverside Risk Manager's reasonable judgment, the amount or type of insurance carried by LICENSEE has become inadequate.

- vii. LICENSEE shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this License Agreement.
- viii. The insurance requirements contained in this License Agreement may be met with a program(s) of self-insurance acceptable to LICENSEE.

7. This License Agreement is to be construed in accordance with the laws of the State of California.

8. If any provision of this License Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall be declared severable and shall be given full force and effect to the fullest extent possible. It is expressly understood that this License Agreement is not exclusive and does not in any way whatsoever grant or convey any permanent easement, lease, fee or other real property interest in WHITEWATER RIVER to LICENSEE.

9. This License Agreement is subordinate to all prior and future rights of LICENSOR in WHITEWATER RIVER and the use of WHITEWATER RIVER for the purposes in which it was acquired.

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

11. This License Agreement is made for the benefit of the parties to this License Agreement and their respective successors and assigns, and except as provided in Section III.19., no other persons or entity may have or acquire any right by virtue of this License Agreement.

12. LICENSEE shall not permit to be placed against WHITEWATER RIVER or any part thereof, any design professionals', mechanics', material man's, contractors' or subcontractors' liens with the regard to LICENSEE's actions upon WHITEWATER RIVER agrees to hold LICENSOR harmless for any loss or expense, including reasonable attorneys' fee, arising from any such liens which might be filed against WHITEWATER RIVER caused by LICENSEE.

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

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Encroachment Permits Section

CITY OF PALM SPRINGS
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
Attn: Joel Montalvo

14. Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided for by this License Agreement, shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.

15. The parties hereto shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. LICENSEE shall proceed diligently with the performance of this License Agreement pending the resolution of a dispute. Prior to the filing of any legal action related to this License Agreement, the parties shall be obligated to attend a mediation session with a neutral third-party mediator agreeable to both parties in the County of Riverside. The parties shall share the cost of mediation.

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

17. Any waiver by LICENSOR or by LICENSEE 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 LICENSOR or LICENSEE 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 LICENSOR or LICENSEE from enforcement hereof.

18. This License Agreement is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith. This License Agreement may be changed or modified only upon the written consent of the parties hereto.

19. This License Agreement shall not be assigned by either Party, in whole or in part, without the prior written consent of the other Party.

20. This License Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this License Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this License Agreement. The Parties further agree that the electronic signatures of the Parties included in this License Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to CUETA as amended from time to time. CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the Party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

//

//

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


12/6/22

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By 
JASON E. UHLEY
General Manager-Chief Engineer

By 
KAREN SPIEGEL, Chair
Board of Supervisors, Riverside County Flood
Control and Water Conservation District


APPROVED AS TO FORM:

ATTEST:

COUNTY COUNSEL

KECIA R. HARPER
Clerk of the Board

By 
WESLEY W. STANFIELD
Deputy County Counsel

By 
Deputy

(SEAL)

Ramon Road Widening Project
Encroachment Permit No. 3382
License Agreement with City of Palm Springs
AMR:blm
10/13/22

CITY OF PALM SPRINGS

DocuSigned by:
Teresa Gallavan
By 10820B62677B452...
TERESA GALLAVAN
Interim City Manager

APPROVED AS TO FORM:

DocuSigned by:
Jeff Ballinger
By 9656A1483C6E407...
JEFFREY BALLINGER
City Attorney

ATTEST:

DocuSigned by:
Brenda Pree
By 54C8B30D3EDE4BE...
BRENDA PREE
City Clerk

APPROVED BY CITY COUNCIL
11/10/2022 Item 1.L. A9326

Ramon Road Widening Project
Encroachment Permit No. 3382
License Agreement with City of Palm Springs
AMR:blm
10/13/22

Certificate Of Completion

Envelope Id: 5B71A4CB84404F4D974DF2AE998F8742	Status: Completed
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Source Envelope:	
Document Pages: 24	Signatures: 3
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Vonda Teed
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	3200 E. Tahquitz Canyon Way
	Palm Springs, CA 92262
	vonda.teed@palmspringsca.gov
	IP Address: 47.176.125.90

Record Tracking

Status: Original 11/15/2022 4:06:17 PM	Holder: Vonda Teed vonda.teed@palmspringsca.gov	Location: DocuSign
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: City of Palm Springs	Location: DocuSign

Signer Events

Jeff Ballinger
 Jeff.Ballinger@bbklaw.com
 City Attorney
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 965EA1483C8E407...
 Signature Adoption: Pre-selected Style
 Using IP Address: 74.116.243.2

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 Signed: 11/18/2022 8:17:24 AM

Electronic Record and Signature Disclosure:
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 ID: 039f380d-1906-40e9-adba-8d91dd4f2c01

Teresa Gallavan
 Teresa.Gallavan@palmspringsca.gov
 Assistant City Manager
 City of Palm Springs
 Security Level: Email, Account Authentication (None)

DocuSigned by:

 10829B62677B452...
 Signature Adoption: Pre-selected Style
 Using IP Address: 47.176.125.90

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 Viewed: 11/21/2022 12:02:03 PM
 Signed: 11/21/2022 12:02:12 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Brenda Pree
 Brenda.Pree@palmspringsca.gov
 City Clerk
 Security Level: Email, Account Authentication (None)

DocuSigned by:

 54C8B30D3EDE4BE...
 Signature Adoption: Pre-selected Style
 Using IP Address: 47.176.125.90

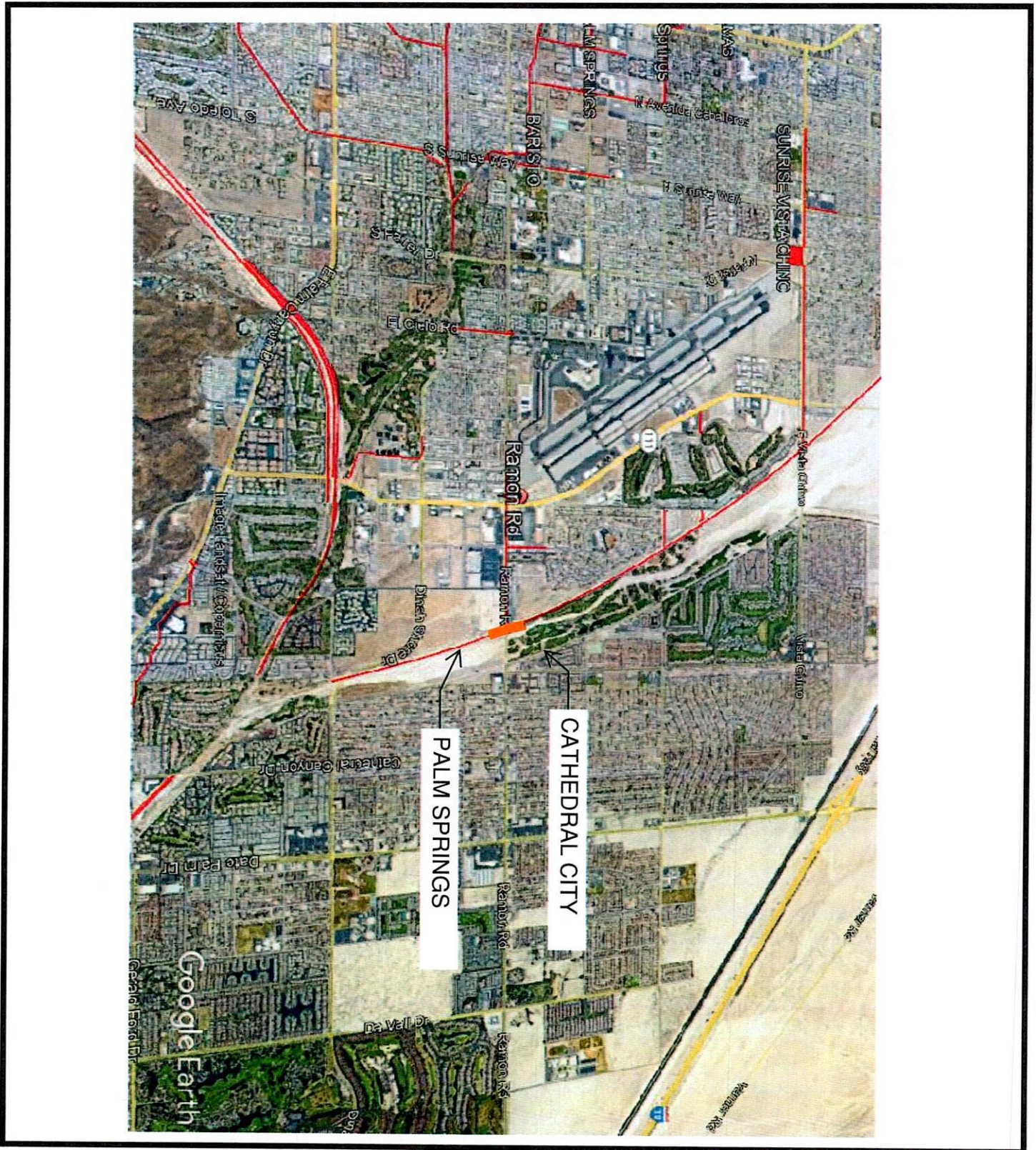
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Electronic Record and Signature Disclosure:
 Accepted: 9/7/2022 8:21:01 AM
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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
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Certified Delivered	Security Checked	11/21/2022 12:06:12 PM
Signing Complete	Security Checked	11/21/2022 12:06:23 PM
Completed	Security Checked	11/21/2022 12:06:23 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

Exhibit A



LICENSE AGREEMENT
Ramon Road Widening Project
Encroachment Permit No. 3382
Page 1 of 1

RCFC&WCD & CITY OF PALM SPRINGS MAINTENANCE EXHIBIT

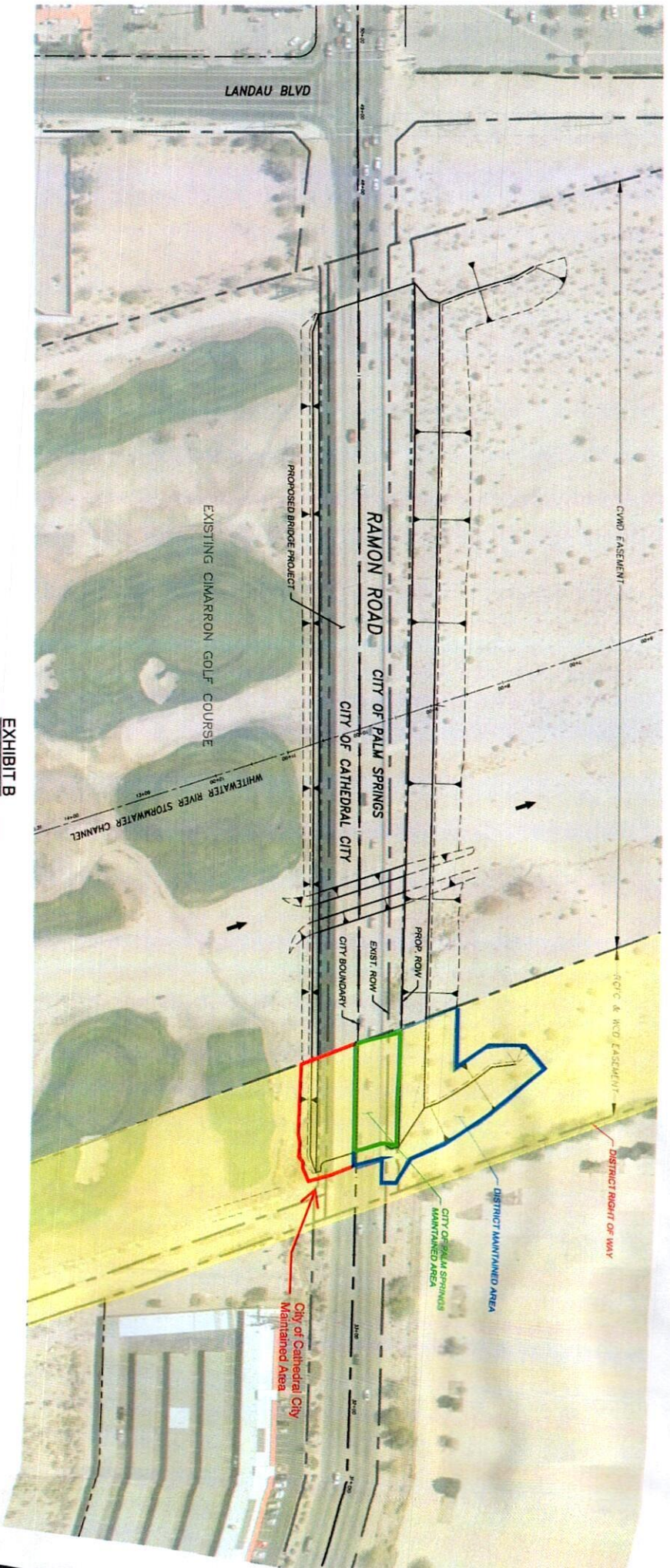


EXHIBIT B
LICENSE AGREEMENT
WHITEWATER RIVER
CASE NO. MS145
ENCROACHMENT PERMIT NO. 6-0-00250-3382
PAGE 1 OF 1

