

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



**ITEM: 11.1**  
(ID # 25186)

**MEETING DATE:**  
Tuesday, June 25, 2024

**FROM :** FLOOD CONTROL DISTRICT

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of the Amended and Restated License Agreement Between the Riverside County Flood Control and Water Conservation District, the Riverside County Transportation Commission and BRPLD, LLC for Winchester Hills Line C, Stage 2 (Storm Drain Improvements for Leon Road), Tract No. 34677, Project No. 4-0-00580, Nothing Further is Required Under CEQA, District 3. [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that nothing further is required under the California Environmental Quality Act ("CEQA") because all potentially significant effects have been considered by Resolution No. F2019-17, adopted on July 23, 2019 [Board Agenda Item No. 11.2], and the accompanying Notice of Determination;
2. Approve the Amended and Restated License Agreement between the Riverside County Flood Control and Water Conservation District ("District"), the Riverside County Transportation Commission ("RCTC") and BRPLD, LLC ("Developer");
3. Authorize the Chair of the District's Board of Supervisors to execute the Amended and Restated License Agreement documents on behalf of the District; and
4. Direct the Clerk of the Board to return three (3) executed originals of the Amended and Restated License Agreement to the District.

**ACTION:Policy**

Jason Uhley, GENERAL MGR-CHIEF FLD CNTRL ENG 6/11/2024

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**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez  
Nays: None  
Absent: None  
Date: June 25, 2024  
xc: Flood

Kimberly A. Rector  
Clerk of the Board  
By:   
Deputy

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<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> The Developer is funding all construction and construction inspection costs (100%)			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> N/A	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On November 7, 2006 [Board Agenda Item No. 11.3], the District's Board of Supervisors approved the license agreement between the District, RCTC and Winchester Ranch 202, LLC ("Previous Developer") to grant the construction and maintenance of certain flood control and drainage facilities.

This Amended and Restated License Agreement ("Agreement") supersedes the previous license agreement in its entirety and sets forth the terms and conditions by which BRPLD, LLC will assume responsibility for the construction of Winchester Hills Line C, Stage 2 (Storm Drain Improvements for Leon Road) pursuant to the conditions of approval for Tract No. 34677.

The Agreement is necessary as a portion of the required facility is located within RCTC rights of way. Under the Agreement, the Developer is granted the necessary rights to construct the facility within RCTC rights of way, and the District is granted the necessary rights to operate and maintain Winchester Hills Line C, Stage 2 (Storm Drain Improvements for Leon Road) after the improvements have been accepted by the District.

The Assignment and Assumption Agreement to Cooperative Agreement approved by the District's Board of Supervisors on October 18, 2022 [Board Agenda Item No 11.2] provides for District inspection and subsequent operation and maintenance of Winchester Hills Line C, Stage 2 (Storm Drain Improvements for Leon Road) facility.

County Counsel has approved the Agreement as to legal form, and RCTC and the Developer have executed the Agreement.

**Environmental Findings**

Resolution No. F2019-17, Considering an Environmental Impact Report (SCH#91082004) for the Winchester Hills Specific Plan No. 293, Making Responsible Agency Findings Pursuant to the California Environmental Quality Act ("CEQA"), and Issuing Certain Limited Approvals for Winchester Hills Specific Plan No. 293 Environmental Impact Report, and an accompanying Notice of Determination ("NOD") was prepared by the District and adopted for Winchester Hills Specific Plan No. 293 by its Board of Supervisors on July 23, 2019 [Board Agenda Item No. 11.2]. The impacts of processing Specific Plan No. 293, which includes Tract Map No. 34677,

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have been evaluated through the environmental review, and there will be no significant environmental impacts by the Winchester Hills infrastructure. The Agreement is an action in furtherance of the project, and nothing further is required for CEQA compliance because this proposed action was adequately analyzed in the earlier adopted NOD by this Board.

**Impact on Residents and Businesses**

As noted above, construction of these drainage improvements is a requirement for the development of Tract Map No. 34677. The principal beneficiaries are the future residents of the tract. Ancillary benefits will accrue to the public who will utilize the tract's roadways.

**Prev. Agn. Ref.:** 11.3 of 11/07/06  
MT 9873, 11.2 of 07/23/19  
MT 19874, 11.2 of 10/18/22

**Additional Fiscal Information**

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs of the District maintained storm drain facility will accrue to the District.

**ATTACHMENTS:**

1. Vicinity Map
2. Amended and Restated License Agreement

P8/256425  
AMR:mm

  
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Jason Farin, Principal Management Analyst 6/18/2024

  
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Aaron Gettis, Chief of Deputy County Counsel 6/12/2024

Agreement No. 05-51-941-01

AMENDED AND RESTATED LICENSE AGREEMENT

Winchester Hills – Line C, Stage 2  
 (Storm Drain Improvements for Leon Road)  
 Project No. 4-0-00580  
 Tract Map No. 34677

This Amended and Restated License Agreement ("License Agreement") is entered into this 25 day of JUNE, 2024 by and between the Riverside County Flood Control and Water Conservation District, a body corporate and politic ("DISTRICT"), the Riverside County Transportation Commission, a public agency existing under the authority of the laws of the State of California (hereinafter referred to as "LICENSOR"), and BRPLD, LLC, a Delaware limited liability company ("DEVELOPER").

RECITALS

- A. DISTRICT, LICENSOR and Winchester Ranch 202, LLC ("PREVIOUS DEVELOPER") entered into that certain license agreement dated December 6, 2006, hereinafter referred to as "PREVIOUS AGREEMENT" requiring PREVIOUS DEVELOPER to construct approximately 67 linear feet of 66-inch diameter steel casing pipe with a 48-inch reinforced concrete pipe (RCP), carrier pipe transmitting storm drain water below the railroad crossing on Leon Road and with any appurtenances thereto ("DRAINAGE FACILITY"), as shown on District Drawing No. 4-0891 and as defined in PREVIOUS AGREEMENT; and
- B. PREVIOUS AGREEMENT required PREVIOUS DEVELOPER to construct DRAINAGE FACILITY as defined in the PREVIOUS AGREEMENT; and
- C. To date, PREVIOUS DEVELOPER has not constructed DRAINAGE FACILITY pursuant to PREVIOUS AGREEMENT; and
- D. In 2019, Ranchos Property, a California general partnership acquired fee title to the real property from PREVIOUS DEVELOPER PREVIOUS DEVELOPER; and
- E. Pursuant to a grant deed dated February 4, 2022, DEVELOPER has acquired fee title to the real property from Ranchos Property; and
- F. Pursuant to the conditions of approval ("COA") and PREVIOUS AGREEMENT for Tract No. 34677, DEVELOPER must construct the DRAINAGE FACILITY, at its sole cost and expense, located on and across LICENSOR's right of way in an unincorporated

area of western Riverside County in order to provide flood protection and drainage for DEVELOPER's planned development; and

G. DISTRICT is willing to operate and maintain DRAINAGE FACILITY within LICENSOR's right of way upon completion of its construction; and

H. LICENSOR is agreeable to the construction, operation and maintenance of the DRAINAGE FACILITY, but solely upon the terms and conditions hereinafter set forth; and

I. LICENSOR is the owner in fee of certain railroad tracks known as the San Jacinto Branchline Subdivision.

J. The tracks are not currently in operation, but in the future could be placed into operation by LICENSOR or Metrolink, operated by the Southern California Regional Rail Authority, a joint powers authority ("SCRRA"), or a successor entity.

K. DISTRICT and DEVELOPER desire to use a portion of LICENSOR's property to install and maintain the DRAINAGE FACILITY on LICENSOR's right of way and adjacent to such tracks; and

L. DEVELOPER has agreed to make the application/processing fee, annual administrative fee and annual license fee payments as part of the consideration for this License Agreement, and as required by LICENSOR, all as further detailed herein.

M. DISTRICT, LICENSOR and DEVELOPER now desire to enter into this Amended and Restated License Agreement with the intent that this License Agreement shall prevail over the terms of the PREVIOUS AGREEMENT.

N. DISTRICT and DEVELOPER are sometimes collectively referred to in this License Agreement as "LICENSEE" provided, however, that this term shall not be interpreted to apply to DISTRICT until DISTRICT has assumed responsibility for maintenance of the DRAINAGE FACILITY.

O. NOW, THEREFORE, in consideration of the premises and of the covenants and agreements hereinafter contained, the parties hereto agree:

**SECTION 1: TERMS.**

LICENSOR, solely to the extent of its right, title and interest, without any warranty, either express or implied, hereby grants to DEVELOPER, its successors and assigns a non-exclusive license and permission, solely for the purposes and subject to the terms, conditions and reservations hereinafter set forth, to excavate, construct and maintain

DRAINAGE FACILITY, in accordance with the design plans approved by DISTRICT, beneath, across and along the right of way north of Leon Road in Winchester, Riverside County, California, as more particularly described or depicted in Exhibit "A" ("LICENSED PROPERTY"). DRAINAGE FACILITY shall conform substantially to the approved design plans, a copy of which shall be furnished to LICENSOR's Executive Director or duly authorized representative.

**SECTION 2: SUBORDINATE RIGHTS.**

The permission herein granted to LICENSEE is expressly subject and subordinate to the present and future right of LICENSOR, its successors, assigns, lessees, grantees and licensees to maintain, use, operate and renew on, beneath, above or near the surface of LICENSED PROPERTY, any or all said things, provided the same do not interfere with LICENSEE's use of LICENSED PROPERTY as hereinabove provided; provided, however, the foregoing conditions for future construction and installation shall not apply to railroad tracks or other public improvements, which LICENSOR, its successors and assigns shall have the right to install, construct, maintain and operate on, over or under the LICENSED PROPERTY at any and all times. This License Agreement is also subordinate to the Shared Use Agreement executed between LICENSOR and Santa Fe dated as of October 30, 1992 and any subsequent amendments thereto.

Upon the determination by LICENSOR that future tracks or any other public improvements should be built on LICENSED PROPERTY, the following shall apply:

(a) If such determination is made prior to construction of DRAINAGE FACILITY, LICENSOR may terminate this License Agreement by providing written notice of termination to LICENSEE, and

(b) If such determination is made following construction of DRAINAGE FACILITY, DRAINAGE FACILITY shall be encased or modified to the specifications of LICENSOR and SCRRA, or removed from LICENSED PROPERTY, and the cost for such encasement, modification or removal shall be borne by DISTRICT. LICENSOR agrees not to order the removal or relocation or changes to DRAINAGE FACILITY for the purpose of future tracks or any other public improvements for five (5) years from the effective date of this License Agreement. If DRAINAGE FACILITY has to be removed from LICENSED PROPERTY in its entirety, LICENSOR shall assist LICENSEE in identifying an alternative location to relocate DRAINAGE FACILITY. If an alternative location for DRAINAGE FACILITY is available on

the property of LICENSOR, as determined in LICENSOR's sole discretion, LICENSOR shall offer such location to LICENSEE. This License Agreement shall be amended following such relocation to identify the new location of DRAINAGE FACILITY crossing LICENSOR's property, if applicable.

**SECTION 3: TERMS EXCLUSIVE TO DEVELOPER RESPONSIBILITY.**

**DEVELOPER SHALL:**

In addition to the requirements set forth elsewhere in this License Agreement, this grant of license and permission is further subject to the following terms, provisions and conditions, which DEVELOPER hereby expressly accepts:

a) No work shall be performed in connection with DRAINAGE FACILITY prior to receipt of LICENSOR's written approval. No approval by LICENSOR of DEVELOPER's or its contractor's plans shall relieve DEVELOPER or its contractor of any responsibility or liability hereunder. Subsequent to installation of DRAINAGE FACILITY, LICENSED PROPERTY shall be restored to a condition satisfactory to LICENSOR's duly authorized representative.

b) All work by or on behalf of DEVELOPER on LICENSED PROPERTY shall be performed by DEVELOPER at DEVELOPER's own expense and without expense to the LICENSOR. All references herein to work of DEVELOPER shall include such work whether performed by DEVELOPER or DEVELOPER's agents, employees or contractors.

c) DEVELOPER shall require that any contractor(s) that will be performing any work on LICENSED PROPERTY in connection with the construction of DRAINAGE FACILITY execute a separate Contractor's Right of Entry Agreement with LICENSOR, in the form attached hereto as Exhibit "B" and made a part hereof. By DEVELOPER's execution of this License Agreement, DEVELOPER shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. DEVELOPER shall use only such construction methods as are consistent with safety, both as concerns DEVELOPER, DEVELOPER's agents and employees, the officers, agents, employees and property of LICENSOR and the public in general. DEVELOPER (without limiting the generality of the foregoing) shall comply with all applicable State and Federal Occupational Safety and Health Acts and regulations. All Federal Railroad Administration Regulations shall be followed when work is performed on LICENSED PROPERTY.

d) DEVELOPER shall not begin nor permit its contractor to begin any work of any nature whatsoever on or about LICENSED PROPERTY until DEVELOPER or its contractor have given LICENSOR's Executive Director or duly authorized representative at least five (5) days prior written notice.

e) DEVELOPER or its contractor shall perform its work hereunder at such time and in such manner as shall be agreed upon between DISTRICT and LICENSOR or the duly authorized representative. During the entire progress of DEVELOPER's work on or about LICENSED PROPERTY, DEVELOPER or its contractor shall maintain contact and liaison with LICENSOR's authorized representatives so as to ascertain the time of passage of trains at the site of DEVELOPER's work and so as to permit free and safe flow of railroad traffic. All work of DEVELOPER shall be performed without interference with LICENSOR's tracks and operations and LICENSOR's and its lessees' or licensees' structures or facilities. DEVELOPER's contractor must be qualified and must have experience in railroad work, including all standards and requirements related thereto. DEVELOPER or its contractor shall use utmost care in protecting LICENSOR's and other's property and in avoiding accidents. DEVELOPER and its contractor shall leave LICENSED PROPERTY in a condition satisfactory to LICENSOR's authorized representatives.

f) DEVELOPER shall, at its sole cost, risk and responsibility, furnish or do, or cause to be furnished or done, any and all things required under this License Agreement when, where and as from time to time required to be accomplished whatsoever authorized representatives attempts or is bound to do at any time hereunder. Said things, including the time and manner of doing any work, shall conform to the requirements and standards of the LICENSOR as well as of any state, federal or municipal authority.

g) The application/processing fee for this License Agreement is \$6,000, and is intended to reimburse LICENSOR for all costs incurred by LICENSOR to process this License Agreement ("Processing Fee"). DEVELOPER has, prior to the effective date of this License Agreement, deposited the sum of \$1,000 with LICENSOR towards the Processing Fee. DEVELOPER shall, within twenty (20) days of receiving a fully executed copy of this License Agreement, make payment to LICENSOR of the remainder of the Processing Fee, in the sum of \$5,000.

h) The annual administrative for this License Agreement is \$200 per annum ("Annual Administrative Fee") and is intended to compensate LICENSOR for the annual costs of



administering this License Agreement. DEVELOPER shall, within twenty (20) days of receiving a fully executed copy of this License Agreement, and annually thereafter on the same date during each succeeding year, make payment to LICENSOR of the Annual Administrative Fee for this License Agreement. Upon acceptance of DRAINAGE FACILITY for operation and maintenance by DISTRICT, the Annual Administrative Fee will no longer be due.

i) The annual fee for this License Agreement is \$15,086 per annum ("Annual License Fee"). DEVELOPER shall, within twenty (20) days of receiving a fully executed copy of this License Agreement, and annually thereafter on the same date during each succeeding year, make payment to LICENSOR of the Annual License Fee for this License Agreement. Upon acceptance of the DRAINAGE FACILITY for operation and maintenance by the DISTRICT, the Annual License Fee will no longer be due.

All rights of DEVELOPER under this License Agreement are contingent upon DEVELOPER making the payments detailed above in accordance with the requirements herein.

**SECTION 4: TERMS EXCLUSIVE TO DISTRICT RESPONSIBILITY.**

**DISTRICT SHALL:**

This grant of license and permission is further subject to the following terms, provisions and conditions which DISTRICT hereby expressly accepts:

a) DISTRICT shall, at its sole cost, operate and maintain DRAINAGE FACILITY in accordance with all applicable federal, state and local laws and regulations and in good and safe condition, and keep same free and clear of debris, sediment or obstructive matter which may or could interfere with or impede the proper functioning thereof, or which could impact the LICENSED PROPERTY or any other property of LICENSOR.

b) DISTRICT shall, at its sole cost, risk and responsibility, furnish, or do, or cause to be furnished or done, any and all things required under this License Agreement, when, where, and as from time to time required to be accomplished whatsoever DISTRICT attempts or is bound to do at any time hereunder. Said things, including the time and manner of doing any work, shall conform to therequirements of LICENSOR as well as of any state, federal or municipal authority. As an example, and not by way of limitation, the following shall apply to DISTRICT on and after the date DISTRICT assumes responsibility for the operation and maintenance of DRAINAGE FACILITY:

i. DISTRICT shall at all times maintain insurance in the form of self-

- insurance acceptable to LICENSOR.
- ii. For all maintenance and repair other than the routine removal of debris, DISTRICT shall comply with all requirements applicable to DEVELOPER under Section 3 of this License Agreement, unless waived in writing by LICENSOR. The term "work" as used in Section 3 shall be deemed to refer to maintenance and repair work of DISTRICT.
  - iii. Subsequent to any work on DRAINAGE FACILITY, the DISTRICT shall leave LICENSED PROPERTY in good and safe condition, satisfactory to LICENSOR.
- c) DISTRICT shall provide notification to LICENSOR prior to the date DISTRICT assumes responsibility for the operation and maintenance of DRAINAGE FACILITY.

**SECTION 5: CONSTRUCTION AND INSTALLATION.**

a) DEVELOPER hereby agrees that there shall be no crossing of LICENSOR's track except at existing, open public crossings. DRAINAGE FACILITY shall be constructed in accordance with the design plans approved by DISTRICT, and within LICENSED PROPERTY. DEVELOPER intends to construct DRAINAGE FACILITY by directional boring and the excavation of the directional boring pits within the railroad right-of-way but not within the track subgrade. There will be no open trench excavation of the tracks during construction of DRAINAGE FACILITY. DEVELOPER agrees to restore LICENSED PROPERTY and, in the case of any damage occurring during construction, the track and trackbed to the same condition as it existed prior to LICENSOR's entry onto the LICENSED PROPERTY, or better condition, upon completion of the construction of DRAINAGE FACILITY.

DEVELOPER, without any cost or expense to LICENSOR, shall furnish or cause to be furnished the necessary labor, material, equipment and instrumentalities and shall perform or cause to be performed all the work of constructing, excavating and installing of said DRAINAGE FACILITY.

b) DEVELOPER hereby agrees that it or its contractor, during the performance of excavating and constructing DRAINAGE FACILITY or any part thereof, will not excavate near the toe of trackfill of the trackbed and will protect trackbed in the design and construction of said

DRAINAGE FACILITY.

c) DEVELOPER shall provide LICENSOR with "as-builts" within twenty (20) days of completion of DRAINAGE FACILITY.

**SECTION 6: INSPECTION; HAZARDOUS MATERIALS.**

a) DEVELOPER hereby agrees that during the performance of excavating and constructing and maintaining the DRAINAGE FACILITY, and DISTRICT hereby agrees that during the performance of inspecting and maintaining said DRAINAGE FACILITY or any part thereof, its men, materials and machinery shall be kept at least twenty-five feet (25') from the centerline of LICENSOR's nearest track at all times; for work within twenty-five (25') feet, a LICENSOR flagman must be present at all times. The foregoing shall only apply if the tracks on or near the LICENSED PROPERTY are in active use.

During any periods when work is being performed on or adjacent to LICENSED PROPERTY by DEVELOPER, its contractor(s) or DISTRICT, in connection with any of the work to be performed hereunder, DEVELOPER or DISTRICT, as applicable, shall comply with all SCRRRA requirements applicable to such work, including, but not limited to, the requirement to have flagmen present for any work within twenty (20) feet of the tracks. LICENSOR may require provision of flagmen or other protective services or devices and may take such action as in LICENSOR's opinion may be necessary for LICENSOR's protection in the conduct of LICENSOR operations. The foregoing shall only apply if the tracks on or near LICENSED PROPERTY are in active use.

DEVELOPER, during the performance of excavating and constructing and maintaining the DRAINAGE FACILITY, or DISTRICT, during the performance of maintaining said DRAINAGE FACILITY, upon receipt of a bill therefor, shall reimburse LICENSOR for any costs so incurred within thirty (30) days; such costs to be computed in accordance with LICENSOR's customary practices. The providing of this service shall not relieve DEVELOPER, its contractor or DISTRICT of any responsibility or liability. DEVELOPER and DISTRICT shall, prior to any construction, inspection, operation or maintenance of DRAINAGE FACILITY, obtain an encroachment permit from SCRRRA, and comply with all requirements of SCRRRA. The foregoing shall only apply if the tracks on or near the LICENSED PROPERTY are in active use.

In the event of any settlement of LICENSOR's embankment caused by excavation of DRAINAGE FACILITY, as herein provided, DEVELOPER, at its sole cost and expense, agrees to restore or

cause to be restored LICENSOR's embankment to its proper grade and dimensions.

b) DISTRICT, on behalf of DISTRICT, and DEVELOPER, on behalf of DEVELOPER, covenants that DISTRICT or DEVELOPER, as applicable, will not handle or transport Hazardous Materials on LICENSED PROPERTY. As used in this License Agreement, "Hazardous Materials" means any chemical, substance or material which is now or becomes in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, its properties or effects. As used in the preceding sentence, "Environmental Law" means any federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of the courts, permits or permit conditions currently existing or as amended or adopted in the future which are or become applicable to DISTRICT or DEVELOPER or LICENSED PROPERTY. In the event any Hazardous Materials are brought upon or released on LICENSED PROPERTY as a result of the construction, operation or maintenance of DRAINAGE FACILITY, DISTRICT, on behalf of DISTRICT, and DEVELOPER, on behalf DEVELOPER, agrees fully to comply with all applicable federal, state and local laws, rules, regulations, orders, decisions and ordinances (hereinafter referred to as "Hazardous Materials Standards") concerning Hazardous Materials.

c) LICENSOR shall have the right at any time to inspect LICENSED PROPERTY and DRAINAGE FACILITY so as to monitor compliance with this License Agreement.

d) DEVELOPER and DISTRICT each agree to assume liability for and to save and hold harmless LICENSOR from and against any and all injuries to any person, including wrongful death, and damage to property, and all related expenses, including without limitation attorneys' fees, investigators' fees and litigation expenses, resulting in whole or in part from DEVELOPER's or DISTRICT's respective failure to comply with any Hazardous Materials Standards issued by any governmental authority concerning Hazardous Materials resulting from or related to DRAINAGE FACILITY within LICENSED PROPERTY, or any activities of DEVELOPER or DISTRICT on the LICENSED PROPERTY. DEVELOPER, for claims arising prior to assumption of ownership and maintenance obligations by DISTRICT, or DISTRICT, for claims arising following its acceptance of ownership and maintenance obligations from DEVELOPER, as applicable, at its cost, shall assume the defense of all claims, in accordance with Section 9 or Section 10 of this License Agreement, as applicable. DEVELOPER and DISTRICT, respectively, agree to reimburse LICENSOR for all costs of any kind incurred as a result of the

failure to comply with this Section 6, including, but not limited to, fines, penalties, clean-up and disposal costs, and reasonable legal costs incurred as a result of any handling, transporting, or disposing of Hazardous Materials on the LICENSED PROPERTY, or any other property of LICENSOR.

**SECTION 7: INSURANCE.**

As a condition to this License Agreement, without limiting or diminishing DEVELOPER's obligation to indemnify or hold DISTRICT, County of Riverside and LICENSOR harmless, DEVELOPER shall procure, and require any contractor engaged or employed to perform any work hereunder on behalf of DEVELOPER on any part of LICENSED PROPERTY to procure, and keep in effect during the period of such work, the following insurance coverages. With respect to this insurance section, DISTRICT 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) Railroad Protective Liability:

DEVELOPER shall, in connection with any construction activities or any work undertaken with respect to DRAINAGE FACILITY either directly by DEVELOPER, or by its contractors, acquire and keep in force during the period of such construction or work \$3,000,000 (combined single limit) **\$6,000,000** (aggregate limit) of railroad protective liability insurance, naming only RCTC as the insured. This requirement shall apply only if the tracks on or near LICENSED PROPERTY are in active use.

b) Workers' Compensation:

If DEVELOPER has employees as defined by the State of California, DEVELOPER 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. Policy shall be endorsed to waive subrogation in favor of DISTRICT and LICENSOR.

c) 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 DEVELOPER's performance of its obligations hereunder. Policy shall name DISTRICT and LICENSOR, their agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as additional insureds. DEVELOPER's policy's limit of liability shall not be less than \$5,000,000 per occurrence combined single and aggregate limit. DEVELOPER's contractor's policy limits of liability shall not be less than \$2,000,000, provided that if Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement and associated Right of Entry/location or the general aggregate limit shall be twice the required occurrence limit.

d) Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this License Agreement, then DEVELOPER 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 DISTRICT and LICENSOR, their agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as additional insureds. .

e) Professional Liability:

DEVELOPER shall cause any architect or engineer retained by DEVELOPER in connection with the performance of DEVELOPER's obligations under this License Agreement to maintain Professional Liability Insurance providing coverage for the performance of their work included

within this License Agreement, with a limit of liability of not less than \$2,000,000 per occurrence and \$2,000,000 annual aggregate. DEVELOPER shall require that, if such Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this License Agreement and that such architect or engineer shall purchase at such architect or engineer's sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this License Agreement; or 3) demonstrate through Certificates of Insurance that such architect or engineer has maintained continuous coverage with the same or original insurer. Coverage provided under items: 1), 2) or 3) shall continue for the term specified in the insurance policy as long as the law allows.

f) Pollution and Asbestos Liability:

DEVELOPER or its construction contractor(s) shall obtain, at its sole expense and keep in effect during the term of the contract, Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) covering DEVELOPER's or its construction contractor(s) liability for a third party bodily injury and property damage arising from pollution conditions caused by DEVELOPER or its construction contractor(s) while performing their operations under the contract. The insurance coverage shall apply to sudden and accidental pollution events. Any coverage restriction as to time limit for discovery of a pollution incident and/or a time limit for notice to the insurer must be accepted by the DISTRICT and LICENSOR. The insurance coverage shall also respond to cleanup cost. This coverage may be written in combination with the commercial general liability insurance or professional liability insurance.

DEVELOPER or its construction contractor(s) shall maintain Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. The policy shall be endorsed to state that the general

aggregate limit of liability shall apply separately to this contract. Any self-insured retention/deductible amount shall be submitted to DISTRICT and LICENSOR for review and approval. If DEVELOPER or its construction contractor(s) maintains broader coverage and/or higher limits than the minimums shown above, DISTRICT and LICENSOR requires and shall be entitled to the broader coverage and/or higher limits maintained by DEVELOPER or its construction contractor(s). Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to DISTRICT and LICENSOR.

In the event DEVELOPER or its construction contractor(s) encounters materials on the site that is believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, DEVELOPER or its construction contractor(s) shall immediately stop work in the area affected and report the condition to DISTRICT, County of Riverside and LICENSOR in writing. The work in the affected area shall not thereafter be resumed except by written agreement of DISTRICT, LICENSOR and DEVELOPER, if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of DISTRICT, LICENSOR and DEVELOPER.

DEVELOPER or its construction contractor(s) shall not be required to perform without consent any work relating to asbestos or polychlorinated biphenyl (PCB). As between LICENSOR and DEVELOPER, DEVELOPER shall, to the fullest extent permitted by law, be responsible for all costs related to remediation of such asbestos or polychlorinated biphenyl (PCB).

g) 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 an A+: VIII (A: 8) unless such requirements are waived, in writing, by both LICENSOR and DISTRICT Risk



Managers. If both LICENSOR and DISTRICT Risk Managers waive a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

- ii. DEVELOPER must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of both LICENSOR and DISTRICT Risk Managers before the commencement of operations under this License Agreement. Upon notification of self-insured retention deemed unacceptable to the DISTRICT and LICENSOR, and at the election of both LICENSOR and DISTRICT Risk Managers, DEVELOPER's carriers shall either: 1) reduce or eliminate such self-insured retention with respect to this License Agreement with DISTRICT and LICENSOR; or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- iii. DEVELOPER shall cause their insurance carrier(s) or its contractor's insurance carrier(s), to furnish DISTRICT and LICENSOR with 1) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; and 2) if requested to do so orally or in writing by both LICENSOR and DISTRICT Risk Managers, 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 a minimum of thirty (30) days written notice shall be given to DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If DEVELOPER insurance carrier(s) policies do not meet the minimum notice requirement found herein, DEVELOPER shall cause DEVELOPER's insurance carrier(s) to furnish a 30-day Notice of Cancellation Endorsement. In the event

of a material modification, cancellation, expiration or reduction in coverage, this License Agreement shall terminate forthwith, unless DISTRICT and LICENSOR receive, 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. 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.

- iv. It is understood and agreed by the parties hereto that DEVELOPER's insurance shall be construed as primary insurance, and DISTRICT's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- v. If, during the term of this License Agreement or any extension thereof, there is a material change in the scope of services or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this License Agreement, including any extensions thereof, exceeds five (5) years, DISTRICT and 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 both the LICENSOR and DISTRICT Risk Managers' reasonable judgment, the amount or type of insurance carried by DEVELOPER has become inadequate.
- vi. DEVELOPER shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this License Agreement.
- vii. The insurance requirements contained in this License Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

- viii. DEVELOPER agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this License Agreement.

If any part of the work is subcontracted, similar insurance shall be provided by or on behalf of the subcontractors to cover their operations. Any limitation in the foregoing insurance requirements that excludes work performed within fifty feet (50') of a LICENSOR track shall be exempted out of said policies. For avoidance of doubt, reference in this Agreement to subcontractors of DEVELOPER includes any and all contractors or subcontractors of DEVELOPER.

Failure to maintain the insurance required by this paragraph shall be deemed a material breach of this License Agreement and shall authorize and constitute authority for DISTRICT and LICENSOR, at its sole discretion, to provide written notice to DEVELOPER that DISTRICT and LICENSOR are unable to perform its obligations hereunder, nor DISTRICT to accept responsibility for ownership, operation and maintenance of DRAINAGE FACILITY due, either in whole or in part, to said breach of this License Agreement.

**SECTION 8: LIMITATION OF LIABILITY; ASSUMPTION OF RISK AND WAIVER.**

a) DISTRICT and DEVELOPER further hereby agree that LICENSOR shall not, at any time, be required to bear or assume any cost or expense in or incident to the construction, operation and maintenance of DRAINAGE FACILITY. DISTRICT and DEVELOPER hereby expressly agrees to bear and assume all such cost and expense.

b) To the maximum extent allowed by law, DISTRICT, on behalf of DISTRICT, and DEVELOPER, on behalf DEVELOPER, assumes any and all risk of loss, damage or injury of any kind to any person or property, including, without limitation, DRAINAGE FACILITY except to the extent such loss, damage or injury arises from LICENSOR's gross negligence or willful misconduct. DISTRICT's, on behalf of DISTRICT, and DEVELOPER's, on behalf DEVELOPER, assumption of risk shall include, without limitation, loss or damage caused by defects in DRAINAGE FACILITY on LICENSED PROPERTY, accident or fire or other casualty on LICENSED PROPERTY resulting from or

in any way related to DRAINAGE FACILITY, except to the extent such loss, damage or injury arises from LICENSOR's gross negligence or willful misconduct. The term "LICENSOR" as used in this Section shall include: (i) any transit or rail-related company legally operating upon or over LICENSOR's tracks or other property; and (ii) any other persons or companies employed, retained or engaged by LICENSOR. DISTRICT, on behalf of itself and its Personnel, and DEVELOPER, on behalf of itself and its Personnel, as a material part of the consideration for this License Agreement, hereby waive all claims and demands against LICENSOR for any such loss, damage or injury of DISTRICT or DEVELOPER and/or their respective Personnel.

In that connection, DISTRICT, on behalf of itself and its Personnel, and DEVELOPER waive, for their respective Personnel, the benefit of California Civil Code Section 1542, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

This provision shall survive the termination of this License Agreement. As used in this Section, "Personnel" means DISTRICT's and DEVELOPER's its respective officers, directors, affiliates or anyone directly or indirectly employed by DISTRICT or DEVELOPER or for whose acts DISTRICT or DEVELOPER is liable.

**SECTION 9: INDEMNITY BY DEVELOPER.**

a) DEVELOPER shall indemnify and hold harmless DISTRICT, County of Riverside, LICENSOR, their 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 DEVELOPER, its officers, employees, subcontractors, agents or representatives, arising from or in any manner related to the performance or failure to perform any obligation under this License Agreement, the design, construction, installation or presence of DRAINAGE FACILITY or the use and maintenance of LICENSED PROPERTY, including, but not limited to, any such losses, damages or expenses arising out of (a) loss of or damage to property, (b) injury to or death of persons, or (c) mechanics' or other liens of any character.

DEVELOPER shall defend, at its sole expense, INDEMNIFIED PARTIES in any claim or legal action based upon such alleged acts or omissions and shall be responsible for all costs and fees including, but not limited to, attorneys' fees, cost of investigation, defense and settlements or awards.

b) With respect to any action or claim subject to indemnification herein by DEVELOPER, DEVELOPER shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle or compromise any such action or claim without the prior consent of INDEMNIFIED PARTIES; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER's indemnification to INDEMNIFIED PARTIES as set forth herein. DEVELOPER's obligation hereunder shall be satisfied when DEVELOPER has provided to INDEMNIFIED PARTIES the appropriate form of dismissal relieving INDEMNIFIED PARTIES from any liability for the action or claim involved.

c) The specified insurance limits required in this License Agreement shall in no way limit or circumscribe DEVELOPER's obligations to indemnify and hold harmless INDEMNIFIED PARTIES herein from third party claims.

d) 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 DEVELOPER from indemnifying INDEMNIFIED PARTIES to the fullest extent allowed by law.

e) 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. Notwithstanding Section 9(a), DEVELOPER shall have no indemnification obligations for any claims to the extent related to the operation or maintenance of DRAINAGE FACILITY arising after the date of acceptance of DRAINAGE FACILITY for operation and maintenance by the DISTRICT.

**SECTION 10: INDEMNITY BY DISTRICT.**

DISTRICT shall indemnify, defend, save and hold harmless LICENSOR (including its officers, elected and appointed officials, employees, agents, representatives, independent contractors and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to DISTRICT's (including its officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent

contractors and subcontractors) actual or alleged acts or omissions related to this License Agreement, performance under this License Agreement, or failure to comply with the requirements of this License Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c) payment of reasonable attorney's fees; or (d) any other cost, liability or loss of any kind or nature whatsoever.

**SECTION 11: TERMINATION OF LICENSE; LICENSOR RIGHT TO CURE BREACH.**

a) This License Agreement shall begin with the date first hereinabove written and continue thereafter for so long as LICENSED PROPERTY shall be used for the purposes set forth herein; provided, however, if DISTRICT shall abandon the use of LICENSED PROPERTY, or any part thereof, for such purposes, for a continuous period of six (6) months then LICENSOR may terminate this License Agreement to the extent of the portion so abandoned or discontinued. In addition to any other rights or remedies, LICENSOR shall have the same complete title to LICENSED PROPERTY so abandoned as though this License Agreement had never been executed and the right to enter thereon and exclude therefrom DISTRICT, its successors and assigns. In the event of such notice of termination the DISTRICT shall arrange for removal of the DRAINAGE FACILITY from the LICENSED PROPERTY or, subject to LICENSOR's approval, in its sole discretion, for their proper encasement or modification to LICENSOR and SCRRRA standards at DISTRICT's sole cost and expense as provided for in Section 2.

b) If the DEVELOPER or DISTRICT does not use the right herein granted or the DRAINAGE FACILITY for one (1) year, or if the DEVELOPER or DISTRICT continues in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from the LICENSOR to the DEVELOPER or DISTRICT, as applicable, specifying such default, the LICENSOR may, at its option, forthwith immediately terminate this License Agreement by written notice.

c) If, at any time, DISTRICT or DEVELOPER shall, in the judgment of LICENSOR, fail to perform properly its respective obligations under this License Agreement, LICENSOR may, at its option, perform such work itself as it deems necessary for the safe operation of its railroad, as applicable, and the safety of the LICENSED PROPERTY, any other uses thereon and any adjacent property. Prior to exercising such right, LICENSOR shall provide advance notice

to DISTRICT or DEVELOPER, as applicable, of LICENSOR's judgment and intention to perform such work. Notwithstanding the foregoing, in the case of an imminent risk to property or safety, as determined in LICENSOR's sole discretion, LICENSOR may immediately perform the required work. In all other cases, thirty (30) days advance written notice shall be provided. In either such event, DISTRICT or DEVELOPER, as applicable, agrees to pay, within sixty (60) business days after a bill is rendered therefor, the cost so incurred by LICENSOR. However, failure on the part of LICENSOR to perform the obligations of DISTRICT or DEVELOPER shall not release the obligated party from liability hereunder for any loss or damage occasioned thereby.

**SECTION 12: WARRANTY AND DISCLAIMER.**

a) The rights herein granted by LICENSOR are limited to such right, title or interest as LICENSOR may have in LICENSED PROPERTY and are made without any warranty, express or implied. It is understood by the parties hereto that such rights are granted subject to the existing rights therein of any third party, if any. It shall be LICENSEE's sole obligation to obtain such additional permission, license and grants as may be necessary on account of any such existing rights. No damages shall be recovered from LICENSOR because of dispossession of LICENSEE or because of failure of, defect in or extinction of LICENSOR's title.

b) LICENSEE accepts the LICENSED PROPERTY in its "as is" condition, with all faults. LICENSEE acknowledges and agrees that LICENSEE is entering the LICENSED PROPERTY under this License Agreement and based on LICENSEE's own investigations and knowledge of the LICENSED PROPERTY and that, except as otherwise specifically stated in this License Agreement, neither LICENSOR nor any agent of LICENSOR, has made any representation or warranty whatsoever, express or implied, with regard to the physical condition of the LICENSED PROPERTY or the suitability of the LICENSED PROPERTY for any particular purpose or use, including, without limitation, any representations or warranties regarding the applicability or non-applicability of any laws, the soil or subsoil, surface or subsurface conditions, topography, possible Hazardous Materials contamination, fill, drainage, access to public roads, availability of utilities, existence of underground storage tanks, applicability of or compliance with any Environmental Law or any other matter of any nature whatsoever. LICENSOR is not responsible for damage to or loss by theft of LICENSEE's property located in, on or beneath the LICENSED PROPERTY.

**SECTION 13: ASSIGNMENT; NO WAIVER.**

This License Agreement and all of the covenants and conditions hereof shall inure to or bind each party's successors and assigns, provided that no right of DEVELOPER and DISTRICT shall be transferred or assigned, either voluntarily or involuntarily, except by express written agreement acceptable to LICENSOR. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right of interest by reason of such attempted assignment, hypothecation or transfer.

Either party hereto may waive any default at any time of the other without affecting, or impairing any right arising from, any subsequent or other default.

**SECTION 14: NOTICE.**

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. Any notice hereunder to be given by one party to the other party shall be deemed to be properly served on the date it is deposited in the United States mail, postage prepaid, addressed as specified below. Any party may change its address for the receipt of notice by giving written notice thereof to the other party of such change.

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

RIVERSIDE COUNTY  
TRANSPORTATION COMMISSION  
4080 Lemon Street, 3<sup>rd</sup> Floor  
Riverside, CA 92501  
Attn: Anne Mayer  
Executive Director

BRPLD, LLC  
3200 Park Center Drive, Suite 1000  
Costa Mesa, CA 92626  
Attn: Shaun Bowen

**SECTION 15: JURISDICTION/LAW; VENUE.**

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 jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way. Venue shall be in Riverside County.



**SECTION 16: REPRESENTATION AND WARRANTIES.**

The individual(s) executing this License Agreement on behalf of DEVELOPER certify that they have the authority within their respective company(ies) to enter into and execute this License Agreement, and have been authorized to do so by all boards of directors, legal counsel and/or any other board, committee or other entity within their respective company(ies) which have the authority to authorize or deny entering into this License Agreement.

**SECTION 17: SEVERABILITY.**

If any term, covenant, condition or provision of this License Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this License Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

**SECTION 18: COUNTERPART; SIGNATURES**

This License Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. A manually signed copy of this License Agreement which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this License Agreement for all purposes. This License Agreement may be signed using an electronic signature.

**SECTION 19: ATTORNEYS' FEES.**

In the event of a dispute between the parties with respect to the terms or conditions of this License Agreement, the prevailing party shall be entitled to collect from the other its reasonable attorneys' fees as established by the judge or arbitrator presiding over such dispute.

**SECTION 20: CONDEMNATION.**

In the event all or any portion of the LICENSED PROPERTY shall be acquired or condemned for public use (including conveyance by deed in lieu of or in settlement of condemnation proceedings), DISTRICT shall receive compensation (if any) only for the acquisition and damage to the DRAINAGE FACILITY. Any other compensation or damages arising out of such taking or

condemnation awarded to LICENSEE are hereby assigned by LICENSEE to LICENSOR.

**SECTION 21: WAIVER OF RELOCATION RIGHTS.**

LICENSEE hereby waives any right to relocation assistance, moving expenses, goodwill or other payments to which LICENSEE might otherwise be entitled, but for this waiver and LICENSOR's express right of termination, under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 United State Code Section 4601 et seq. and/or the California Relocation Assistance Law, as amended, Government Code Section 7260 et seq.

**SECTION 22: NO RECORDING.**

LICENSEE shall not record or permit to be recorded in the official records of the Riverside County any memorandum of this License Agreement or any other document giving notice of the existence of this License Agreement or the license granted hereby.

**SECTION 23: NONDISCRIMINATION.**

LICENSEE certifies and agrees that all persons employed thereby and any contractors retained thereby with respect to the LICENSED PROPERTY and the DRAINAGE FACILITY are and shall be treated equally without regard to or because of race, religion, ancestry, national origin or sex, and in compliance with all federal and state laws prohibiting discrimination in employment, including, but not limited to the Civil Rights Act of 1964; the Unruh Civil Rights Act; the Cartwright Act; and the California Fair Employment Practices Act.

**SECTION 24: ENTIRE AGREEMENT; AMENDMENT; RECITALS.**

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 amendment executed by the parties hereto. The recitals set forth above are true and correct and are incorporated into this License Agreement as if fully set forth herein.

//  
//

[Signatures on following page]

SIGNATURE PAGE TO  
AMENDED AND RESTATED LICENSE AGREEMENT


Winchester Hills – Line C, Stage 2  
(Storm Drain Improvements for Leon Road)  
Project No. 4-0-00580  
Tract Map No. 34677

IN WITNESS WHEREOF, the parties here to have duly executed this License Agreement as of the day and year first herein above written.

RECOMMENDED FOR APPROVAL:

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

By   
JASON E. UHLEY  
General Manager-Chief Engineer

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

APPROVED AS TO FORM:

ATTEST:

MINH TRAN  
County Counsel

KIMBERLY RECTOR  
Clerk of the Board

By   
RYAN YABKO  
Deputy County Counsel

By   
Deputy

(SEAL)


[Signatures continued on following page]

Amended and Restated License Agreement:  
Winchester Hills – Line C, Stage 2  
(Storm Drain Improvements for Leon Road)  
Project No. 4-0-00580  
Tract Map No. 34677  
04/22/24  
AMR:blj

**RIVERSIDE COUNTY TRANSPORTATION  
COMMISSION**

By:   
AARON HAKE  
Executive Director

APPROVED AS TO FORM:

By:   
STEVE DEBAUN  
Best Best & Krieger LLP  
Counsel to the Riverside County Transportation  
Commission


[Signatures continued on following page]

Amended and Restated License Agreement:  
Winchester Hills – Line C, Stage 2  
(Storm Drain Improvements for Leon Road)  
Project No. 4-0-00580  
Tract Map No. 34677  
04/22/24  
AMR:bjj

**BRPLD LLC,**  
a Delaware limited liability company

By: Brookfield Southern California Land LLC,  
its Sole Member

By: \_\_\_\_\_  
Name: Dave E. Bartlett  
Title: Vice President

By:   
Name: NICOLE BURBAUM  
Title: PRESIDENT

(ATTACH NOTARY WITH CAPACITY  
STATEMENT)

Amended and Restated License Agreement:  
Winchester Hills – Line C, Stage 2  
(Storm Drain Improvements for Leon Road)  
Project No. 4-0-00580  
Tract Map No. 34677  
04/22/24  
AMR:blj

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

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF Orange                  )            ss.

On May 20, 2024, before me, S Six, Notary Public, personally appeared Dave E. Bartlett, Nicole Burdette, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~are subscribed to the within instrument and acknowledged to me that ~~he~~~~she~~they executed the same in ~~his~~~~her~~their authorized capacity(ies) and that by ~~his~~~~her~~their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



S Six  
Notary Public

EXHIBIT "A"  
LICENSED PROPERTY  
DESCRIPTION/DEPICTION

[attached behind this page]

# EXHIBIT A





**461-14**  
 22-22

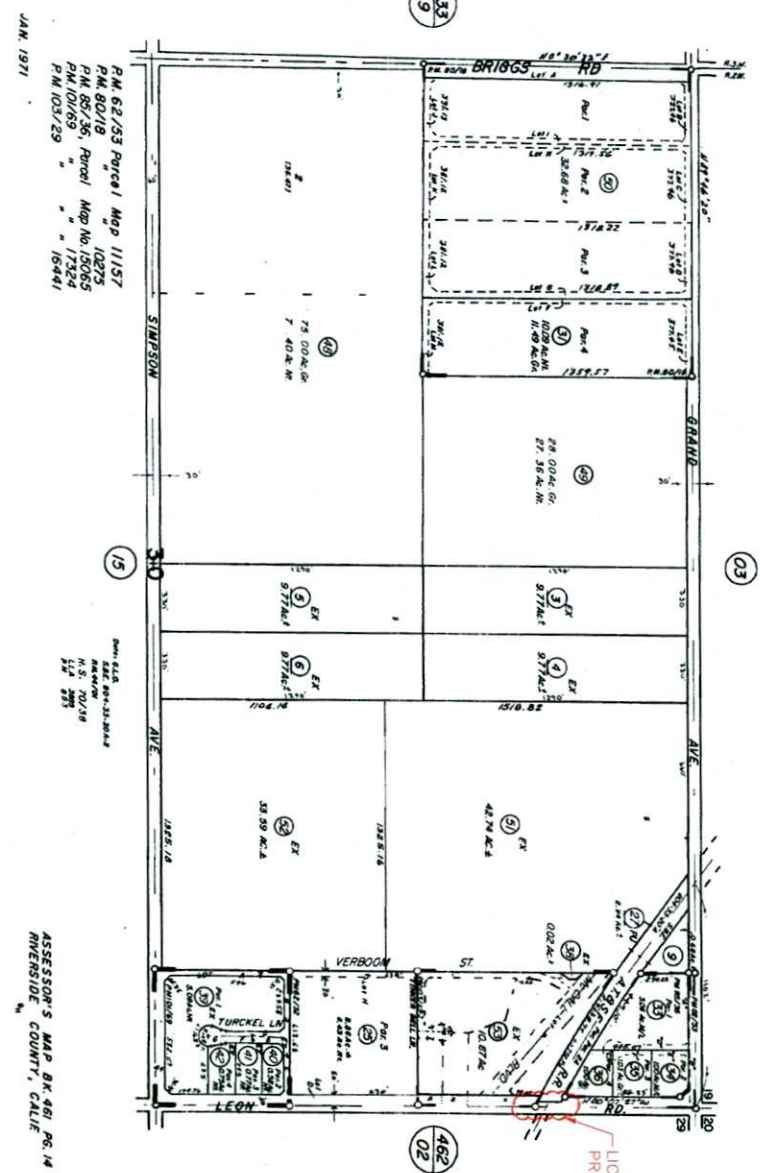
TRA 089-014

N<sup>2</sup> SEC. 30, T.55, R.2W.

THIS MAP IS FOR  
 ASSESSMENT PURPOSES ONLY



DATE	NO.	BY	DESCRIPTION
7/16	001	J.S.	1/4 AC
7/16	002	J.S.	1/4 AC
7/16	003	J.S.	1/4 AC
7/16	004	J.S.	1/4 AC
7/16	005	J.S.	1/4 AC
7/16	006	J.S.	1/4 AC
7/16	007	J.S.	1/4 AC
7/16	008	J.S.	1/4 AC
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7/16	026	J.S.	1/4 AC
7/16	027	J.S.	1/4 AC
7/16	028	J.S.	1/4 AC
7/16	029	J.S.	1/4 AC
7/16	030	J.S.	1/4 AC



**461 PARCEL MAP**

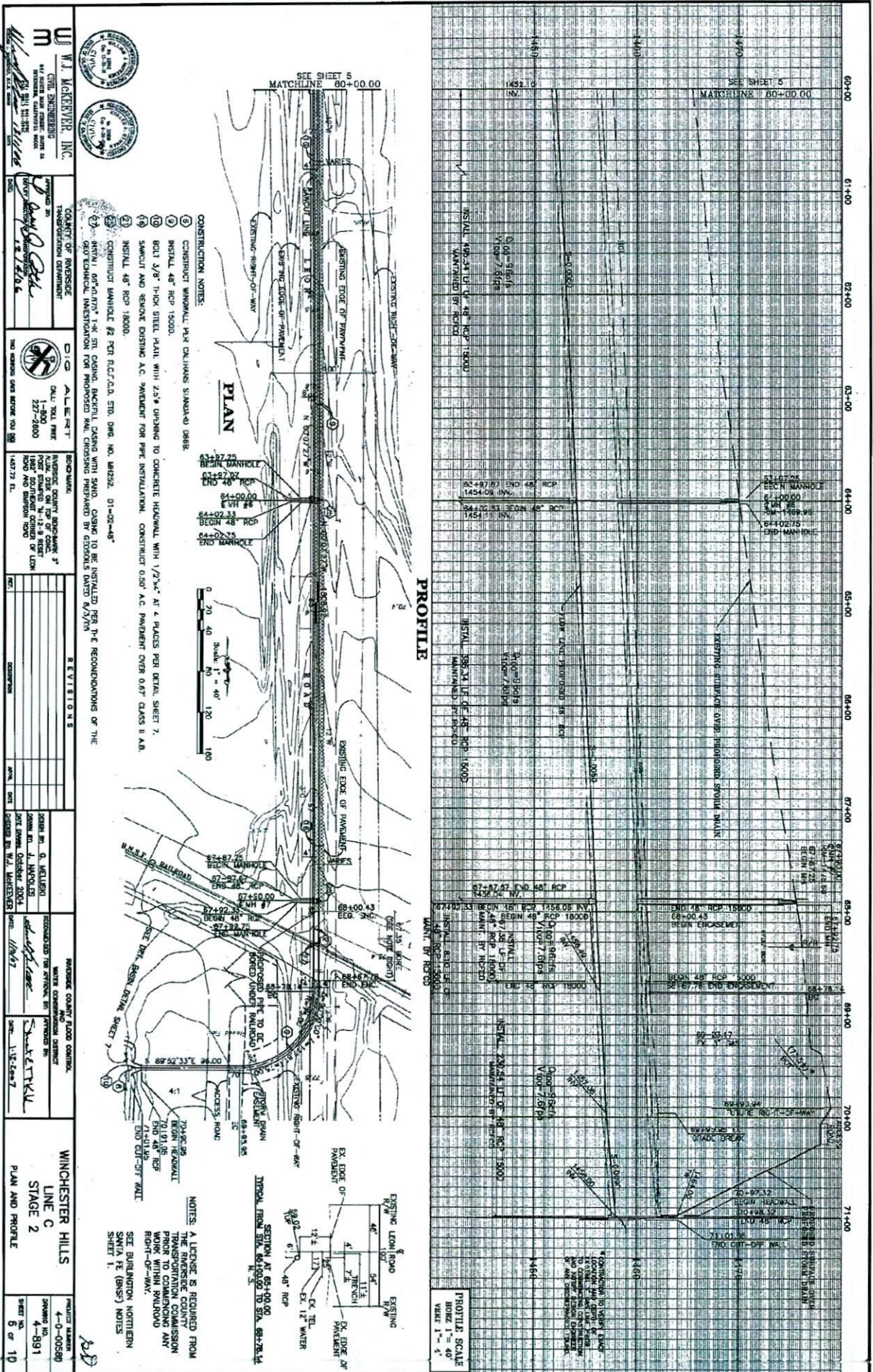
**JIG** Engineering & Consulting, Inc.  
 41601 IVY STREET, SUITE A  
 NUBRIETTA, CA 92862  
 PH: 951.304.9552 FAX: 951.304.3568  
**EXHIBIT A**



**JTC**  
Engineering & Consulting, Inc.  
41660 IVY STREET, SUITE A  
MURRIETA, CA 92562  
PH: 951.304.9551 FAX 951.304.3868

**EXHIBIT A**

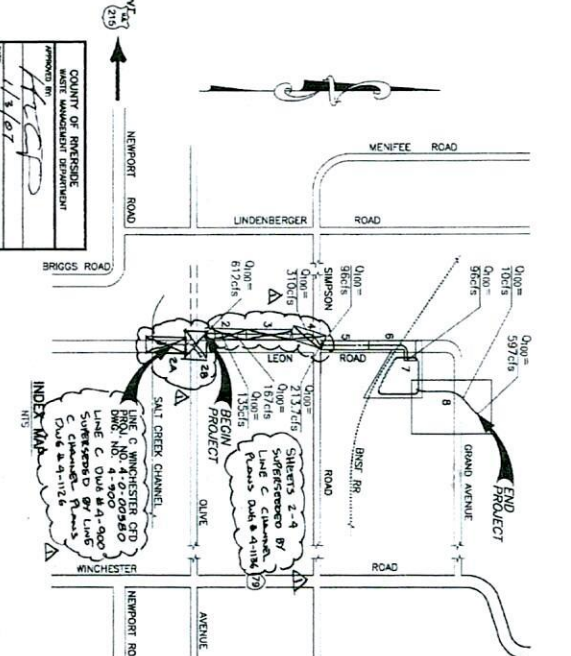
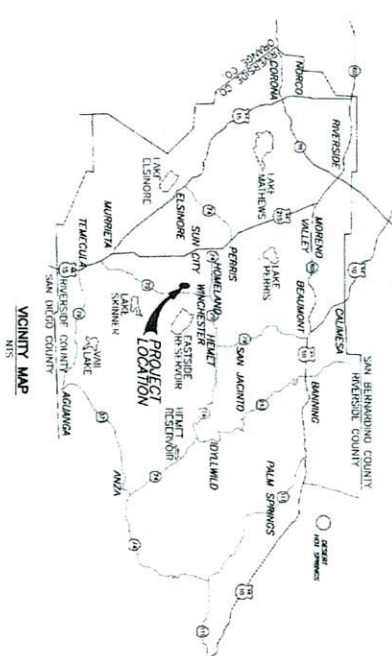
# EXHIBIT A



# RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

## GENERAL NOTES

1. THE CONTRACTOR SHALL CONSTRUCT THE FLOOD CONTROL IMPROVEMENTS SHOWN ON THE DRAWINGS IN CONFORMANCE WITH THE REQUIREMENTS OF THE DISTRICT STANDARD SPECIFICATIONS DATED SEPTEMBER 1984 AND DESIGN MANUAL STANDARD DRAWINGS DATED APRIL 2004.
2. AN EXISTING FLOOD FENCE IS LOCATED AT THE INTERSECTION OF THE PROJECT CONTRACT TO LOTZ AT 951/955-1768. AFTER THE FENCE IS ISSUED, THE DISTRICT MUST BE NOTIFIED ONE WEEK PRIOR TO CONSTRUCTION.
3. CONSTRUCTION INSPECTION WILL BE PERFORMED BY RIVERSIDE COUNTY FLOOD CONTROL CONTRACT DALE ANDERSON AT 951/955-1288. THE DISTRICT MUST BE NOTIFIED TWENTY DAYS (20) PRIOR TO CONSTRUCTION.
4. ALL STATIONING REFERS TO CENTERLINE OF CONSTRUCTION UNLESS OTHERWISE NOTED.
5. STATIONING FOR INTERNALS AND CONNECTOR PIPE REFER TO THE CENTERLINE INTERSECTION STATIONS.
6. FIGHT-EIGHT HOURS BEFORE EXCAVATION, CALL UNDERGROUND SERVICE ALERT 1-800-422-4133 AND/OR 1-800-227-7800.
7. ALL ELEVATIONS SHOWN ARE IN FEET AND DECIMALS THEREOF BASED ON U.S.C. & G.S. DATUM.
8. ALL CROSS SECTIONS ARE TAKEN LOOKING DOWNSTREAM.
9. ELEVATIONS OF UTILITIES ARE APPROXIMATE UNLESS OTHERWISE NOTED.
10. OPENINGS RESULTING FROM THE CUTTING OR REMOVAL OF EXISTING CULVERTS, PIPES OR SIMILAR STRUCTURES TO BE ABANDONED SHALL BE SEALED WITH 6" OF CLASS "B" CONCRETE.
11. PIPE CONNECTED TO THE MAINLINE PIPE SHALL CONFORM TO JUNCTION STRUCTURE NO. 4 (AS 229) UNLESS OTHERWISE NOTED.
12. PIPE BENDING SHALL CONFORM TO AASHTO M28 STD. DING. NO. M15 EXCEPT FOR COVER < 2 FEET. FOR COVER < 2 FEET, CONCRETE SLURRY (2000 P.S.F. - 2 INCHES MINIMUM AND 12 INCHES MAXIMUM ABOVE THE TOP OF THE PIPE.
13. "Y" IS THE DEPTH OF CATCH BASINS AS MEASURED FROM THE TOP OF CURB TO INVERT OF CONNECTOR PIPE.
14. CATCH BASINS SHALL BE LOCATED SO THAT LOCAL DEPRESSION SHALL BEGIN AT EXISTING CURB RETURN JOINT UNLESS OTHERWISE SPECIFIED.
15. ALL CURBS, GUTTERS, SIDEWALKS, DRIVEWAYS AND OTHER EXISTING IMPROVEMENTS TO BE RECONSTRUCTED IN KIND AND AT THE SAME ELEVATION AND LOCATION AS THE EXISTING UNLESS OTHERWISE NOTED.
16. STANDARD DRAWINGS CALLED FOR ON THE PLAN AND PROFILE SHALL CONFORM TO DISTRICT STANDARD DRAWINGS UNLESS NOTED OTHERWISE.
17. THE CONTRACTOR IS REQUIRED TO CALL ALL UTILITY AGENCIES REGARDING TEMPORARY STOPPING AND SUPPORT REQUIREMENTS FOR THE VARIOUS UTILITY LINES SHOWN ON THESE PLANS.
18. DURING ROUGH GRADING OPERATIONS AND PRIOR TO CONSTRUCTION OF PERMANENT DRAINAGE STRUCTURES, TEMPORARY DRAINAGE STRUCTURES SHOULD BE INSTALLED TO PREVENT FLOODING WATER AND DAMAGE TO ADJACENT PROPERTIES.
19. APPROVAL OF THESE PLANS BY RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT DOES NOT RELIEVE THE ENGINEERING ENGINEER OF RESPONSIBILITY FOR THE ENGINEERING DESIGN. IF FIELD CHANGES ARE REQUIRED, THE RESPONSIBILITY OF THE DESIGN ENGINEER TO MAKE THE NECESSARY CORRECTIONS.
20. THE CONTRACTOR OR DEVELOPER SHALL SECURE ALL REQUIRED ENVIRONMENTAL PERMITS AND APPROVALS PRIOR TO THE COMMENCEMENT OF ANY WORK.
21. CONTRACTOR TO CONTACT RIVERSIDE COUNTY WASTE MANAGEMENT DEPARTMENT TO OBTAIN PERMITS PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES WITHIN WASTE MANAGEMENT DISTRICT.



	<b>W.J. MACKAY, INC.</b> CIVIL ENGINEERING 4000 W. STATE ST. SUITE 204 RIVERSIDE, CA 92504 TEL: 951-514-1234	COUNTY OF RIVERSIDE TRANSPORTATION DEPARTMENT 1000 N. GARDEN ST. RIVERSIDE, CA 92501 TEL: 951-955-1234	CALTRANS ALL REQUEST CALL TOLL FREE 1-800-422-4133 227-2400 TWO WEEKS DATA BEFORE YOU GET IT	R.E.V.I.S.I.O.N.S. 1. LINDENBERG, SHEET 2-4, 3-4, 4-4, 5-4, 6-4, 7-4, 8-4, 9-4, 10-4, 11-4, 12-4, 13-4, 14-4, 15-4, 16-4, 17-4, 18-4, 19-4, 20-4, 21-4, 22-4, 23-4, 24-4, 25-4, 26-4, 27-4, 28-4, 29-4, 30-4, 31-4, 32-4, 33-4, 34-4, 35-4, 36-4, 37-4, 38-4, 39-4, 40-4, 41-4, 42-4, 43-4, 44-4, 45-4, 46-4, 47-4, 48-4, 49-4, 50-4, 51-4, 52-4, 53-4, 54-4, 55-4, 56-4, 57-4, 58-4, 59-4, 60-4, 61-4, 62-4, 63-4, 64-4, 65-4, 66-4, 67-4, 68-4, 69-4, 70-4, 71-4, 72-4, 73-4, 74-4, 75-4, 76-4, 77-4, 78-4, 79-4, 80-4, 81-4, 82-4, 83-4, 84-4, 85-4, 86-4, 87-4, 88-4, 89-4, 90-4, 91-4, 92-4, 93-4, 94-4, 95-4, 96-4, 97-4, 98-4, 99-4, 100-4.	RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT PROJECT MANAGER: [Signature] DATE: 1-12-2007	RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT PROJECT MANAGER: [Signature] DATE: 1-12-2007	WINCHESTER HILLS LINE C STAGE 2 AND WINCHESTER HILLS LINE C DETENTION BASIN TITLE SHEET	PROJECT NUMBER: 4-8-0000 DRAWING NO.: 4-891 SHEET NO.: 1 OF 10
	TR 302089 1P050245 2P	86-241740						

### SHEET INDEX

TITLE SHEET	1 & 1A
PLAN AND PROFILE - CHANNEL AND 77' RCP	2-4
PLAN AND PROFILE - 48" RCP	5-6
LEON ROAD DETENTION BASIN DETAILS	7
PLAN AND PROFILE - 60" RCP	8
GRAND AVENUE DETENTION BASIN DETAILS	9
GRAND AVENUE DETENTION BASIN CROSS SECTIONS	10
R.C.T.C. & W.C.D. STANDARD DRAWINGS	18

COUNTY OF RIVERSIDE STANDARD DRAWINGS

204 TYPE "B" CURB ONLY (6" CR)

CALTRANS STANDARDS

088B VINCEVAL  
093C PIPE RCP/R

AMERICAN PUBLIC WORKS ASSOCIATION

361 TROUGH INCK (INCLINED)

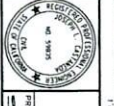
MAINTENANCE RESPONSIBILITY NOTE

RCP/D MAINTAINS:  
LINE C  
WEST LEON INLET  
24" RCP WITH RISER

RAILROAD CONTROL AND WATER CONSERVATION DISTRICT

REC'D	COUNTY OVERSIGHT ENGINEER	REGISTRATION NUMBER	DATE SIGNED
-------	---------------------------	---------------------	-------------

APPROVED AS TO CONFORMANCE WITH APPLICABLE COUNTY STANDARDS AND PRACTICES



**JCS**  
Engineering & Consulting, Inc.  
14150 STEEL MILL AVENUE, SUITE 100  
SAN DIEGO, CA 92128  
TEL: (619) 444-8888  
WWW.JCS-ENGINEERING.COM

PROJECT NO. 191721  
DATE: 02/20/22  
SCALE: AS SHOWN

APPROVED FOR THE COUNTY ENGINEER  
DATE: 02/20/22

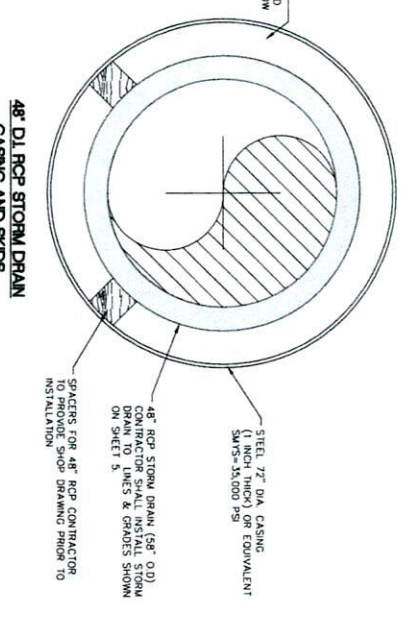
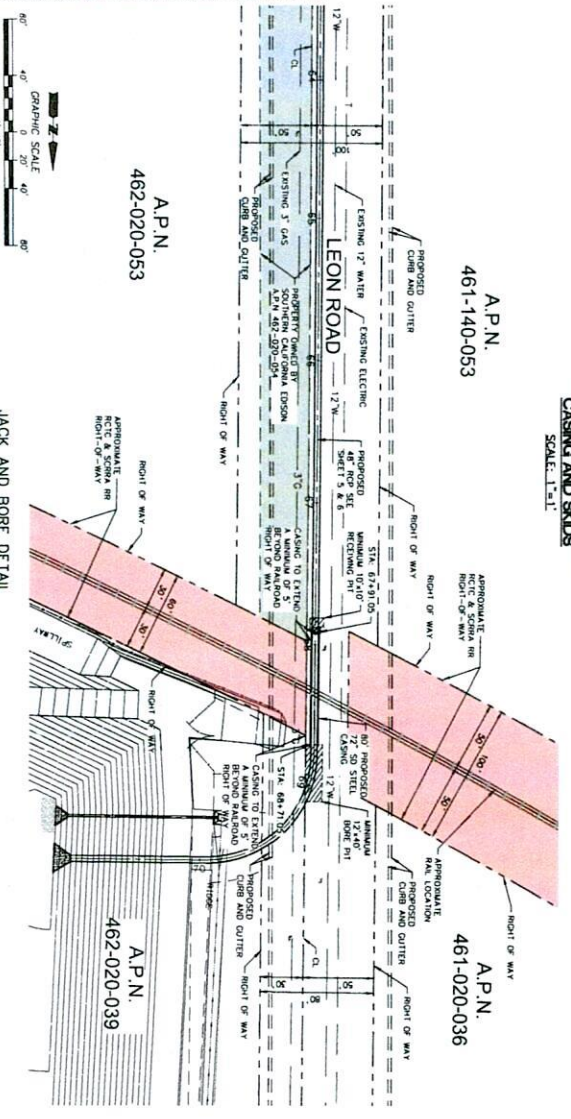
APPROVED FOR THE COUNTY ENGINEER  
DATE: 02/20/22

APPROVED FOR THE COUNTY ENGINEER  
DATE: 02/20/22

APPROVED FOR THE COUNTY ENGINEER  
DATE: 02/20/22

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DATE: 02/20/22

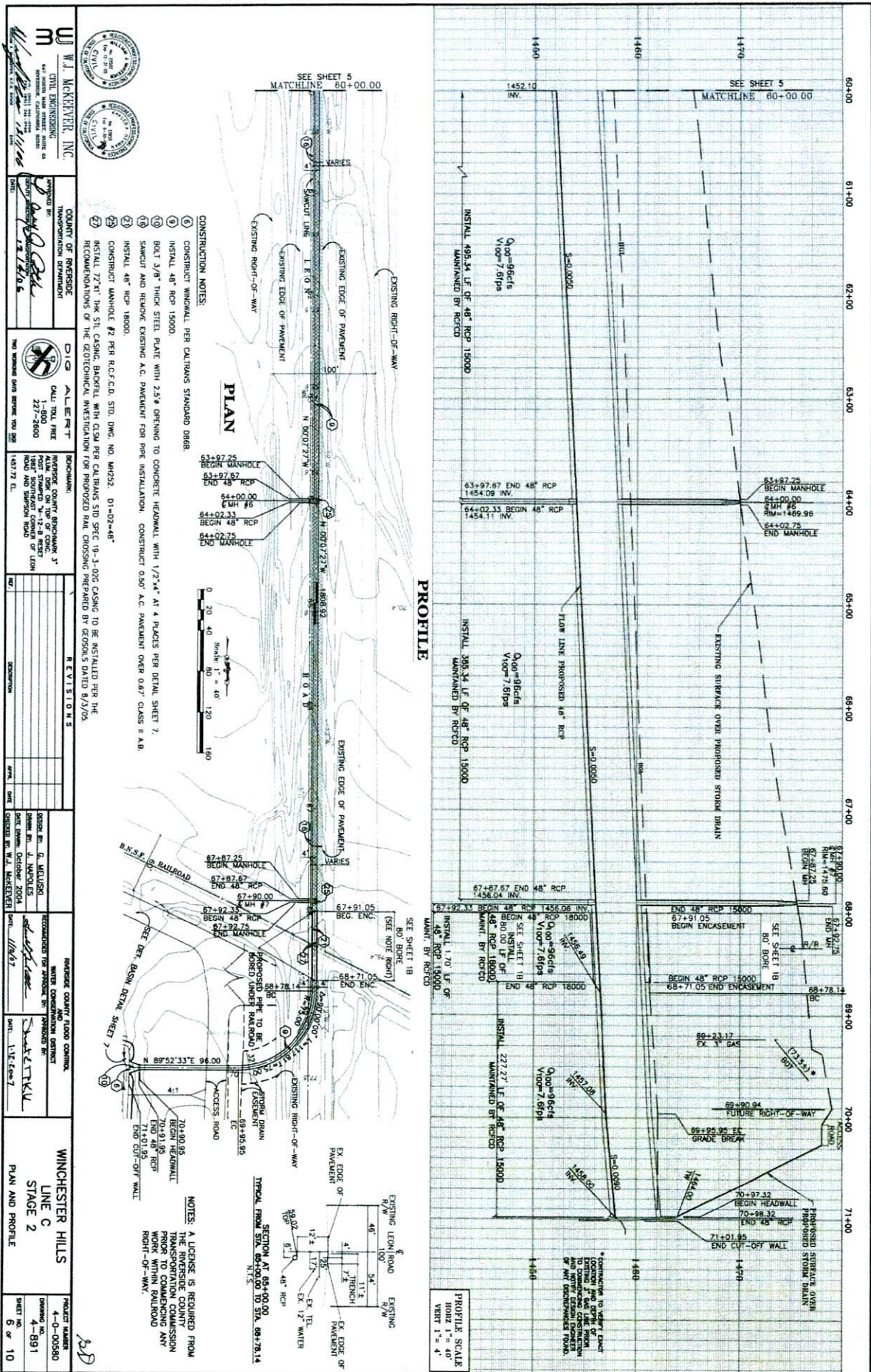
APPROVED FOR THE COUNTY ENGINEER  
DATE: 02/20/22



- RTC & SCRRA RAILROAD NOTES**
1. CONTRACTOR SHALL CONTACT THE (SCRRA) SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY ROADMASTER, ERIC REESE (909)-667-8108 AT LEAST (5) WORKING DAYS (MONDAY THROUGH FRIDAY) BEFORE STARTING CONSTRUCTION.
  2. CONTRACTOR SHALL CONTACT THE (SCRRA) SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY ROADMASTER, ERIC REESE (909)-667-8108 AT LEAST (10) WORKING DAYS (MONDAY THROUGH FRIDAY) IN ADVANCE OF WHEN FLAGGING SERVICES WILL BE REQUIRED. EACH TIME A FLAGGER IS ON THE JOB, THE CONTRACTOR SHALL BE REQUIRED TO PROVIDE A FLAGGER BASE DURING THE PERIOD OF FLAGGING. THE CONTRACTOR SHALL BE REQUIRED TO PROVIDE NECESSARY BY THE RAILWAYS REPRESENTATIVE WILL BE BORNE BY THE CONTRACTOR.
  3. CONTRACTOR SHALL CONTACT THE RIVERSIDE COUNTY TRANSPORTATION COMMISSION, ERIC GUTERREZ (951)-206-3818 AT LEAST 5 WORKING DAYS (MONDAY THROUGH FRIDAY) BEFORE STARTING CONSTRUCTION.
  4. RAIL TRACK ELEVATIONS OVER THE PIPELINE SHALL BE QUARTER (1/4) INCH AND RAIL TRACK ELEVATIONS SHALL BE QUARTER (1/4) INCH. A LETTER REPORT FROM THE SURVEYOR SHALL BE SUBMITTED TO (SCRRA) AND RTC STAFFING METHODOLOGY AND MONITORING RESULTS WITHIN 10 WORKING DAYS OF THE SURVEY. THE CONTRACTOR SHALL BE REQUIRED TO PROVIDE A LETTER REPORT FROM THE SURVEYOR TO (SCRRA) AT POMA OFFICE 2700 MELBOURNE AVE POMA, CA 91767 AND ERIC GUTERREZ OF RTC AT 2950 WASHINGTON ST. RIVERSIDE, CA 92506 AT (951)998-4624 TO ARRANGE FOR FLAGGED SERVICES. FLAGGING AVAILABILITY AND MAY REQUIRE A MINIMUM OF FIFTEEN WORKING DAYS PRIOR TO BEGINNING CONSTRUCTION. THE CONTRACTOR SHALL BE REQUIRED TO MAINTAIN THE AVAILABILITY OF THE RMC FOR THE PROPOSED DATE OF WORK.
  5. CONTRACTOR SHALL CONTACT THE RAILROADS AT (714)659-1141 TO ARRANGE FOR RAILROAD SAFETY TRAINING. ALLOW 72 HOURS FROM THE DATE OF TRAINING TO COMPLETE THE TRAINING. THE CONTRACTOR IS TO COMPLETE SCRRA'S TEMPORARY RIGHT OF ENTRY AGREEMENT, FORM 6. THIS FORM IS AVAILABLE ON SCRRA'S WEBSITE WWW.RAILROADTRANS.COM (ABOUT US, ENGINEERING AND CONSTRUCTION, EMPLOYMENT COORDINATOR, 2958 SUPPLY STREET POMA, CA 91767).
  6. CONTRACTOR SHALL CONTACT THE RAILROADS AT (714)659-1141 TO ARRANGE FOR RAILROAD SAFETY TRAINING. ALLOW 72 HOURS FROM THE DATE OF TRAINING TO COMPLETE THE TRAINING. THE CONTRACTOR IS TO COMPLETE SCRRA'S TEMPORARY RIGHT OF ENTRY AGREEMENT, FORM 6. THIS FORM IS AVAILABLE ON SCRRA'S WEBSITE WWW.RAILROADTRANS.COM (ABOUT US, ENGINEERING AND CONSTRUCTION, EMPLOYMENT COORDINATOR, 2958 SUPPLY STREET POMA, CA 91767).
  7. CONTRACTOR SHALL CONTACT THE RAILROADS AT (714)659-1141 TO ARRANGE FOR RAILROAD SAFETY TRAINING. ALLOW 72 HOURS FROM THE DATE OF TRAINING TO COMPLETE THE TRAINING. THE CONTRACTOR IS TO COMPLETE SCRRA'S TEMPORARY RIGHT OF ENTRY AGREEMENT, FORM 6. THIS FORM IS AVAILABLE ON SCRRA'S WEBSITE WWW.RAILROADTRANS.COM (ABOUT US, ENGINEERING AND CONSTRUCTION, EMPLOYMENT COORDINATOR, 2958 SUPPLY STREET POMA, CA 91767).
  8. CONTRACTOR WILL NEED TO COMPLETE RTC'S GENERAL APPLICATION FORM. THE FORM IS AVAILABLE ON RTC'S WEBSITE WWW.RAILROADTRANS.COM (ABOUT US, ENGINEERING AND CONSTRUCTION, EMPLOYMENT COORDINATOR, 2958 SUPPLY STREET POMA, CA 91767).
  9. CONTRACTOR SHALL CONTACT THE RAILROADS AT (714)659-1141 TO ARRANGE FOR RAILROAD SAFETY TRAINING. ALLOW 72 HOURS FROM THE DATE OF TRAINING TO COMPLETE THE TRAINING. THE CONTRACTOR IS TO COMPLETE SCRRA'S TEMPORARY RIGHT OF ENTRY AGREEMENT, FORM 6. THIS FORM IS AVAILABLE ON SCRRA'S WEBSITE WWW.RAILROADTRANS.COM (ABOUT US, ENGINEERING AND CONSTRUCTION, EMPLOYMENT COORDINATOR, 2958 SUPPLY STREET POMA, CA 91767).

TR 30989 I.P. 040245  
WINCHESTER HILLS LINE C STATE 2 AND WINCHESTER HILLS LINE C DETENTION BASIN NOTES AND BORE PIT

PROJECT NO. 191721  
DRAWING NO. 4-81  
SHEET NO. 18 OF 10



- CONSTRUCTION NOTES:**
1. CONSTRUCT MANHOLE PER CALTRANS STANDARD 0888.
  2. INSTALL 48" RCP 15000.
  3. BOLT 3/8" THICK STEEL PLATE WITH 2.5" OPENING TO CONCRETE HEADWALL WITH 1/2"x4" AT 4 PLACES PER DETAIL SHEET 7.
  4. SANDWICH AND REMOVE EXISTING A.C. PAVEMENT FOR PIPE INSTALLATION. CONSTRUCT 0.50' A.C. PAVEMENT OVER 0.50' CLASS B A.B.
  5. INSTALL 48" RCP 18000.
  6. CONSTRUCT MANHOLE #2 PER R.C.P.C.D. STD. DWG. NO. W0252, D1-02-48".
  7. INSTALL 27"x1" THK. 5L CASING, BACKFILL WITH G.S.M PER CALTRANS STD SPEC 19-3-002 CASING TO BE INSTALLED PER THE RECOMMENDATIONS OF THE GEOTECHNICAL INVESTIGATION FOR PROPOSED RAIL CROSSING PREPARED BY GEOSOLS DATED 8/2/05.

<p><b>W.J. MCKEYER, INC.</b>                  CIVIL ENGINEERING                  1111 W. 11th Street, Suite 100                  Lincoln, NE 68502                  TEL: (402) 441-1111                  FAX: (402) 441-1112                  WWW.WJMCKEYER.COM</p>		<p><b>COUNTY OF PINEBLOTT</b>                  TRANSPORTATION DEPARTMENT                  1000 N. 10th Street                  Lincoln, NE 68508                  TEL: (402) 441-1111                  FAX: (402) 441-1112</p>										
<p><b>PROJECT NAME:</b> WINCHESTER HILLS  <b>LINE C</b>  <b>STAGE 2</b>  <b>PLAN AND PROFILE</b></p>		<p><b>PROJECT NUMBER:</b> 4-0-00380  <b>DRAWING NO.:</b> 4-991  <b>SHEET NO.:</b> 6 of 10</p>										
<p><b>DESIGNED BY:</b> G. J. MCKEYER  <b>CHECKED BY:</b> J. J. MCKEYER  <b>DATE:</b> OCTOBER 2004  <b>SCALE:</b> 1/4" = 1'-0"</p>		<p><b>REVISIONS:</b></p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/16/04</td> <td>ISSUED FOR PERMITS</td> </tr> <tr> <td>2</td> <td>11/15/04</td> <td>ISSUED FOR PERMITS</td> </tr> </tbody> </table>		NO.	DATE	DESCRIPTION	1	10/16/04	ISSUED FOR PERMITS	2	11/15/04	ISSUED FOR PERMITS
NO.	DATE	DESCRIPTION										
1	10/16/04	ISSUED FOR PERMITS										
2	11/15/04	ISSUED FOR PERMITS										

**PROFILE**

PROFILE SCALE  
 HORIZ 1" = 40'  
 VERT 1" = 4'

\*CONTRACTOR TO VERIFY EXISTING CONDITIONS AND DEPTH OF EXISTING UTILITY PRIOR TO CONSTRUCTION TO AVOID COLLISIONS AND ANY DISCREPANCIES FROM DRAWING.

SECTION AT 68+00.00  
 TYPICAL FROM STA. 68+00.00 TO STA. 68+75.14

NOTES: A LICENSE IS REQUIRED FROM THE ENGINEERING COUNTY WORKER TO WORK WITHIN RAILROAD RIGHT-OF-WAY.

EXHIBIT "B"  
FORM OF RIGHT OF ENTRY

[attached behind this page]

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
RIGHT OF ENTRY AGREEMENT  
WITH (INSERT NAME OF PARTY)**

**Winchester Hills – Line C, Stage 2  
(Storm Drain Improvements for Leon Road)  
Project No. 4-0-00580  
Tract Map No. 34677**

This Right of Entry Agreement ("Right of Entry") is entered in this \_\_\_ day of \_\_\_\_\_, 202\_ by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION (the "COMMISSION") and \_\_\_\_\_ ("PERMITTEE"). The COMMISSION and PERMITTEE are sometimes individually referred to as "Party" and collectively as "Parties".

RECITALS

A. WHEREAS, the COMMISSION is the owner in fee of that certain real property and railroad tracks known as the San Jacinto Branchline, north of Leon Road in Winchester, Riverside County, California, as more particularly described or depicted in Exhibit "A" ("LICENSED PROPERTY") of the Amended and Restated License Agreement, Winchester Hills – Line C, Stage 2 (Storm Drain Improvements for Leon Road) Project No. 4-0-00580, Tract Map No. 34677, amongst BRPLD, LLC, a Delaware limited liability company ("DEVELOPER"), COMMISSION and the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("DISTRICT"), dated \_\_\_\_\_, Agreement No. 06-51-915-01 ("Drainage Facility License Agreement").

B. WHEREAS, the LICENSED PROPERTY, as defined above, is referred to in this Right of Entry as the "Property".

C. WHEREAS, DEVELOPER must construct approximately 67 linear feet of 66-inch diameter steel casing pipe with a 48-inch reinforced concrete pipe (RCP), carrier pipe transmitting storm drain water below the railroad crossing on Leon Road and with any appurtenances thereto ("DRAINAGE FACILITY"), as shown on DISTRICT Drawing No. 4-0891. DRAINAGE FACILITY is subject to the inspection by the DISTRICT in accordance with the Drainage Facility License Agreement.



E. WHEREAS, Construction of the DRAINAGE FACILITY is needed in order to provide flood protection and drainage for DEVELOPER's planned development; and

F. WHEREAS, PERMITTEE has requested to enter onto the Property, on a temporary basis, for the purpose of performing construction of the "DRAINAGE FACILITY," as that term is defined herein and in the Drainage Facility License Agreement, substantially in accordance with the plans attached as Exhibit "B" to the Drainage Facility License Agreement (the "Project").

NOW, THEREFORE, the COMMISSION and PERMITTEE do hereby agree as follows:

#### AGREEMENT

1. Incorporation of Recitals. The recitals set forth above are incorporated into this Right of Entry as though fully set forth herein.

2. Incorporation of Drainage Facility License Agreement. This Right of Entry is made in reference to that certain Drainage Facility License Agreement, a copy of which has been provided to PERMITTEE, the applicable terms of which are incorporated into this Right of Entry by reference.

3. Right of Entry. The COMMISSION hereby grants to PERMITTEE and its agents, employees and contractors the temporary right to enter onto the Property for the purpose of performing the Project, and for no other purpose.

4. Term. The term of this Right of Entry shall commence on the date first set forth above, and shall automatically terminate **[INSERT NUMBER OF DAYS]** ( ) days from the date first herein written above unless earlier terminated as provided herein. The term may be extended by written notice to PERMITTEE in the sole and absolute discretion of the COMMISSION. This Right of Entry is subordinate to all prior or future rights and obligations of the COMMISSION in the Property, except that the COMMISSION shall grant no future rights inconsistent with the reasonable exercise by PERMITTEE of its rights under this Right of Entry.

5. Liens. PERMITTEE shall not permit to be placed against the Property, or any part thereof, any design professionals', mechanics', materialmen's contractors' or subcontractors' liens with regard to any actions upon the Property pursuant to this Right of Entry. PERMITTEE

agrees to hold the COMMISSION harmless for any loss or expense, including reasonable attorneys' fees and costs, arising from any such liens which may be filed against the Property.

6. Condition of Premises. PERMITTEE ACCEPTS THE PROPERTY IN ITS "AS IS" CONDITION, WITH ALL FAULTS. PERMITTEE ACKNOWLEDGES AND AGREES THAT PERMITTEE IS ENTERING THE PROPERTY UNDER THIS RIGHT OF ENTRY BASED ON PERMITTEE'S OWN INVESTIGATIONS AND KNOWLEDGE OF THE PROPERTY AND THAT, EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS AGREEMENT, NEITHER COMMISSION NOR ANY AGENT OF COMMISSION, HAS MADE ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH REGARD TO THE PHYSICAL CONDITION OF THE PROPERTY OR THE SUITABILITY OF THE PROPERTY FOR ANY PARTICULAR PURPOSE OR USE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES REGARDING THE APPLICABILITY OR NON-APPLICABILITY OF ANY LAWS, THE SOIL OR SUBSOIL, SURFACE OR SUBSURFACE CONDITIONS, TOPOGRAPHY, POSSIBLE HAZARDOUS SUBSTANCES CONTAMINATION, FILL, DRAINAGE, ACCESS TO PUBLIC ROADS, AVAILABILITY OF UTILITIES, EXISTENCE OF UNDERGROUND STORAGE TANKS, APPLICABILITY OF OR COMPLIANCE WITH ANY ENVIRONMENTAL LAWS OR ANY OTHER MATTER OF ANY NATURE WHATSOEVER. THE COMMISSION IS NOT RESPONSIBLE FOR DAMAGE TO OR LOSS BY THEFT OF PERMITTEE'S PROPERTY LOCATED IN OR ON THE PROPERTY.

7. Indemnification and Defense.

A. PERMITTEE hereby agrees to indemnify, defend, assume all liability for and hold harmless the COMMISSION and its officers, employees, agents and representatives, to the maximum extent allowed by law, from all actions, claims, suits, penalties, obligations, liabilities, damages to property, costs and expenses (including, without limitation, any fines, penalties, judgments, settlements, actual litigation expenses and experts' and actual attorneys' fees), environmental claims or bodily and/or personal injuries or death to any persons, arising out of or in any way connected to the acts or omissions of PERMITTEE in connection with or arising from any entry onto the Property or the performance of the Project or arising out of or in connection with such activities, whether such entry, activities or performance thereof is by PERMITTEE or anyone directly or indirectly employed or under contract with PERMITTEE or acting on behalf of PERMITTEE, and whether such damage or claim shall accrue or be discovered before or after the termination of this Right of Entry.

B. Upon written notice from the COMMISSION, PERMITTEE agrees to assume the defense of any lawsuit, administrative action or other

proceeding for which PERMITTEE has an obligation to defend pursuant to paragraph A above.

C. The obligations under this Section 7 shall apply except to the extent of the sole negligence or willful misconduct of the COMMISSION, and are in addition to any other rights or remedies under the law or under this Right of Entry. This Section 7 shall survive the revocation or termination of this Right of Entry.

8. Assumption of Risk and Waiver. To the maximum extent allowed by law, PERMITTEE releases the COMMISSION from and assumes any and all risk of loss, damage or injury of any kind to any person or property, including without limitation, the Property, COMMISSION's property and any other property of, or under the control or custody of PERMITTEE, which is on or near the Property. PERMITTEE's assumption of risk shall include, without limitation, loss or damage caused by defects in any structure or improvement on the Property, accident or fire or other casualty on the Property. PERMITTEE, on behalf of itself and its Personnel, as a material part of the consideration for this Right of Entry, hereby waives all claims and demands against the COMMISSION for any such loss, damage or injury of PERMITTEE and/or its Personnel. In that connection, PERMITTEE waives, for itself and its Personnel, the benefit of California Civil Code Section 1542, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The provisions of this section shall survive the termination of this Right of Entry. As used in this section, "Personnel" means PERMITTEE, or its officers, directors, affiliates, or anyone directly or indirectly employed by PERMITTEE or for whose acts PERMITTEE is liable.

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

10. Inspection. The COMMISSION and its representatives, employees, agents or independent contractors may, but shall not be required to, enter and inspect the Property or any portion thereof or any improvements thereon at any time and from time to time at reasonable times to verify PERMITTEE's compliance with the terms and conditions of this Right of Entry.

11. Not Real Property Interest. It is expressly understood that this Right of Entry does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the Property to PERMITTEE. This Right of Entry is not exclusive and the COMMISSION specifically reserves the right to grant other rights of entry within the vicinity of the Property.

12. Notice. Any notice hereunder to be given by the COMMISSION to PERMITTEE shall be deemed to be properly served on the date it is deposited in the United States Mail, postage prepaid, addressed to **[ENTER ADDRESS AND CONTACT NAME]**. Any notice to be given hereunder by PERMITTEE to the COMMISSION shall be deemed to be properly served on the date it is deposited in the United States Mail, postage prepaid, addressed to Executive Director, Riverside County Transportation Commission, 4080 Lemon Street, Third Floor, Riverside, CA 92502-2208. Either PERMITTEE or the COMMISSION may change its address for the receipt of notice by giving written notice thereof to the other party of such change.

13. Attorneys' Fees. In the event of a dispute between the Parties with respect to the terms or conditions of this Right of Entry, the prevailing Party shall be entitled to collect from the other its reasonable attorneys' fees as established by the judge or arbitrator presiding over such dispute.

14. Revocable Right; Termination. Notwithstanding any other provision of this Right of Entry, this Right of Entry is revocable and may be terminated at any time by either party upon one (1) business day's prior notice in writing to be served upon the other party. In cases of an emergency or a breach of this Right of Entry by PERMITTEE, this Right of Entry may be terminated by the COMMISSION immediately.

15. Restoration of the Property. PERMITTEE shall be responsible for the cleanup of any Project activity. Upon the termination or revocation of this Right of Entry, PERMITTEE shall, at its own cost and expense, restore the Property to at least as good of a condition as which it was in prior to PERMITTEE's entry, excluding therefrom any modification, improvement or alteration that is part of the completed and accepted DRAINAGE FACILITY.

In case PERMITTEE shall fail to restore the Property to its prior condition as described in this Section 15 within ten (10) business days after the effective date of the termination, the COMMISSION may proceed with such work at the expense of PERMITTEE. This section shall survive the revocation or termination of this Right of Entry.

16. Insurance. PERMITTEE shall comply with the insurance provisions contained in Exhibit "A", attached hereto and incorporated herein by reference.

17. Continuing Liability. No termination of this Right of Entry shall release PERMITTEE from any liability or obligation hereunder resulting from any acts, omissions or events happening prior the termination of this Right of Entry and restoration of the property to its prior condition.

18. Survival of Obligations. All obligations of PERMITTEE hereunder not fully performed as of the termination or cessation of this Right of Entry in any manner shall survive the termination of this Right of Entry, including without limitation, all obligations concerning the condition of the Property.

19. Counterparts. This Right of Entry may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

20. Severability. Should any term of this Right of Entry be deemed unlawful or unenforceable by a court of competent jurisdiction, that provision shall be severed and the remaining terms may continue to be fully enforced.

21. Authority. The persons signing below represent and warrant that they have the requisite authority to bind the entities on whose behalf they are signing.

22. Assignment. PERMITTEE shall not assign or transfer this Right of Entry. Any attempted act in violation of this Section shall be void and without effect.

23. Governing Law. This Right of Entry shall be governed by the laws of the State of California. Venue shall be in Riverside County.

24. Entire Agreement. This Right of Entry and the exhibit attached hereto constitute the entire agreement between the COMMISSION and PERMITTEE with respect to the subject matter hereof and supersede all

prior verbal or written agreements and understandings between the parties with respect to the items set forth herein.

25. Electronically Transmitted Signatures. A manually signed copy of this Agreement which is transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

**[Signatures on following page]**

**SIGNATURE PAGE TO  
RIGHT OF ENTRY AGREEMENT**

**(Winchester Hills Line C – Simpson Road Lateral)**

**IN WITNESS WHEREOF**, the Parties hereto have executed this Right of Entry on the date first written above.

**RIVERSIDE COUNTY  
TRANSPORTATION COMMISSION**

**PERMITTEE  
[INSERT NAME]**

By: \_\_\_\_\_  
\_\_\_\_\_, Executive Director

By: \_\_\_\_\_

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Best Best & Krieger LLP  
Counsel to the Riverside County  
\_\_\_\_\_  
Transportation Commission

By: \_\_\_\_\_  
Its:

\* A corporation requires the signatures of two corporate officers.

One signature shall be that of the chairman of board, the president or any vice president and the second signature (on the attest line) shall be that of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation.

If the above persons are not the intended signators, evidence of signature authority shall be provided to the Commission.

**EXHIBIT "A"**  
**TO RIGHT OF ENTRY AGREEMENT**

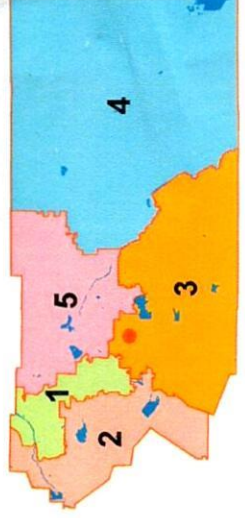
**INSURANCE PROVISIONS**

PERMITTEE shall obtain, and shall require any consultant, contractor or agent entering the Property on its behalf to obtain insurance of the types and in the amounts described in Section 7 of the Drainage Facility License Agreement.





# VICINITY MAP



## Legend

- Supervisorial District
- Project Vicinity License Area
- Existing Facilities
- Pending Acceptance Facilities
- City of Menifee

## Description

Winchester Hills – Line C, Stage 2  
 (Storm Drain Improvements for Leon Road)  
 Project No. 4-0-00580  
 Tract Map No. 34677