

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



ITEM: 11.1  
(ID # 25693)

**MEETING DATE:**

Tuesday, September 10, 2024

**FROM :** FLOOD CONTROL DISTRICT

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of the Reimbursement Agreement Between the Riverside County Flood Control and Water Conservation District and Clow Valve Company for the Temescal Creek Channel Access Road Polychlorinated Biphenyls Remediation Project, Project No. 2-0-00050, CEQA Exempt per CEQA Guidelines Section 15330 and 15061(b)(3), District 2. [\$0]

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

1. Find that the Reimbursement Agreement ("Agreement") is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), the "Common Sense" exemption and Section 15330 exemption;
2. Approve the Agreement between the Riverside County Flood Control and Water Conservation District ("District") and the Clow Valve Company, a division of McWane, Inc., a Delaware stock corporation ("Clow");
3. Authorize the Chair of the District's Board of Supervisors to execute the Agreement documents on behalf of the District;
4. Authorize the General Manager-Chief Engineer or designee to approve, sign and execute any future non-substantive amendments to the Agreement that do not materially change the scope of services, subject to approval as to form by County Counsel; and
5. Direct the Clerk of the Board to return two (2) copies of the executed Agreement to the District.

**ACTION:**Policy

  
Jason Orsby, GENERAL MGR-CHIEF FLD CNTRL ENG 8/28/2024

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Gutierrez, 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, Perez and Gutierrez  
Nays: None  
Absent: None  
Date: September 10, 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> 25120-947420-548200 Infrastructure (Zone 2 Construction)			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> N/A	

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

**BACKGROUND:**

**Summary**

This Agreement sets forth the terms and conditions by which the District will install six inches of asphalt on the southern access road of the District's existing Temescal Creek Channel ("Project") as directed by the United States Environmental Protection Agency ("EPA") and the Department of Toxic Substances Control ("DTSC") and subsequently operate and maintain the access road in accordance with the requirements prescribed by DTSC.

EPA determined that Clow's site located on Assessor's Parcel Number 107-030-022 and address 1375 Magnolia Avenue in Corona, CA is contaminated with Biphenyls ("PCB"). EPA directed Clow to conduct sampling on the Project site, which is the adjacent District owned and operated Temescal Creek Channel. PCB contamination was detected on portions of District property within the southern access road, approximately between El Camino Avenue and Magnolia Avenue ("Contaminated Site").

EPA and Clow informed the District of the PCB contamination extending from the Clow site onto the Contaminated Site. EPA directed Clow and the District to resolve the contamination, which requires placement of six-inch thick asphalt capping on the Contaminated Site. Therefore, the District will prepare the design plans and specifications to place six-inch thick asphalt capping on the Contaminated Site in accordance with EPA, DTSC and public works requirement and administer construction of the Project. Clow will reimburse the District for fifty percent (50%) of actual out of pocket costs directly related to construction of the Project.

The Agreement sets forth the terms and conditions by which Clow will reimburse the District for 50% of the cost of construction of the Project, including all associated approved change orders for the District as part of its public works construction contract.

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

**Environmental Findings**

The Agreement is exempt from CEQA pursuant to the CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption), which provides, "The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant

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effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA". The Agreement does not authorize actual physical development of the underlying property to any extent whatsoever. Such development, if it occurs at all, is subject to separate CEQA review by the lead agency with land use authority over the development prior to construction. As such, execution of this agreement is a separate and distinct project under CEQA from the development of the site therefore it can be seen with certainty that there is no possibility that executing this Agreement will have a significant effect on the environment. Furthermore, the Districts action, "installation of six-inch thick asphalt capping" is exempt from CEQA pursuant to the CEQA Guidelines Section 15330, which consists of any minor actions to prevent, minimize, stabilize, mitigate, or eliminate the release of or threat of release of a hazardous waste or substances which are small or medium removal actions costing \$1million or less.

**Impact on Residents and Businesses**

The District's financial contribution under this Agreement will be funded by District ad valorem property tax revenues and entails no new fees, taxes or bonded indebtedness to residents and businesses. Upon construction completion, the access road will be in compliance with EPA and DTSC requirements.

**Additional Fiscal Information**

The engineer's estimate for the construction of the Project is estimated to be \$444,731; however, the final amount of the construction contract will be determined by competitive bidding through the California Public Works Contract Process. Clow will reimburse the District 50% of all construction costs, which is estimated to be \$222,365.50 as well as any approved change orders. The remaining costs for the Project will be funded with the District's Zone 2 funds.

The District will ensure sufficient funding is secured for the Project prior to construction contract award by the Board of Supervisors. Future operation and maintenance costs associated with the Project will accrue to the District.

**ATTACHMENTS:**

1. Vicinity Map
2. Reimbursement Agreement

AMR:RM:blj  
P8/257260

  
Douglas Ardones Jr. 9/3/2024

  
Aaron Gettis, Chief of Deputy County Counsel 8/28/2024

REIMBURSEMENT AGREEMENT

APN: 107-030-023

Temescal Creek Channel Access Road PCB Remediation

Project No. 2-0-00050

This Reimbursement Agreement ("Agreement"), dated as of Sept 10, 2024, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and the Clow Valve Company, a division of McWane, Inc., a Delaware Stock Corporation ("CLOW"). The Agreement may refer to DISTRICT and CLOW collectively as the "Parties". The Parties agree as follows:

RECITALS

A. United States Environmental Protection Agency ("USEPA") determined that CLOW's site located at Assessor's Parcel Number 107-030-022 and address 1375 Magnolia Avenue in Corona, California ("CLOW SITE") is contaminated with Polychlorinated Bi Phenyls ("PCB"); and

B. USEPA directed CLOW to conduct sampling on adjacent DISTRICT owned property on Assessor's Parcel Number ("APN") 107-030-023 ("DISTRICT PROPERTY"); and

C. PCB contamination was detected on portions of DISTRICT PROPERTY within the southern access road of DISTRICT PROPERTY approximately between El Camino Avenue and Magnolia Avenue, as shown in green on Exhibit "A" and hereinafter referred to ("CONTAMINATED SITE") and identified by USEPA as CATSCA102301; and

D. USEPA and CLOW informed DISTRICT of PCB contamination extending from CLOW site onto CONTAMINATED SITE. USEPA directed CLOW and DISTRICT to resolve the contamination by (1) filing a Risk-Based Approval Application in accordance with 40 CFR 761.61(c)(1) ("APPLICATION") and (2) place six-inch thick asphalt capping on the CONTAMINATED SITE; and

E. CLOW prepared and filed APPLICATION, attached hereto as Attachment 1 and made part thereof; and

F. DISTRICT will place six-inch thick asphalt capping on CONTAMINATED SITE in accordance with public works requirements; and

G. DISTRICT will prepare all plans and associated specifications for constructing the asphalt cap on CONTAMINATED SITE, bid the plans and specifications ("PROJECT"), and administer construction of PROJECT; and

H. CLOW will reimburse DISTRICT for fifty percent (50%) of actual out of pocket costs directly related to PROJECT.

NOW, THEREFORE, in consideration of the preceding recitals, and the mutual covenants hereinafter contained, the Parties hereto mutually agree that the above recitals are true and correct and incorporated into the terms of this Agreement and as follows:

### SECTION I

CLOW shall comply with the following provisions:

1. CLOW shall coordinate with USEPA and the California Department of Toxic Substances Control ("DTSC") to the extent such coordination is required to facilitate construction of the asphalt cap.

2. With input from DISTRICT as needed, to the extent required by USEPA, CLOW shall prepare the and submit the following to USEPA:

- a. Toxic Substances Control Act ("TSCA") Application;
- b. Operations and Maintenance Plan;
- c. Soil Management Plan; and
- d. TSCA Completion Report.

3. CLOW shall provide technical expertise and directly reimburse DTSC as required to assist DTSC in preparing a Land Use Covenant ("LUC").

4. Within thirty (30) days upon receipt by CLOW of an invoice prepared by DISTRICT totaling fifty percent (50%) of the total amount of the lowest responsive bid received by DISTRICT for PROJECT ("CONSTRUCTION INVOICE"), supported by lowest responsive bid abstracts, CLOW shall remit payment to DISTRICT.

5. Within thirty (30) days upon receipt by CLOW of an invoice prepared by DISTRICT totaling fifty (50%) of the total amount of any DISTRICT approved change orders on PROJECT ("CHANGE ORDER INVOICE"), supported by a complete and accurate accounting of all DISTRICT construction costs, CLOW shall remit payment to DISTRICT.

### SECTION II

DISTRICT shall comply with the following provisions:

1. DISTRICT shall bid and administer PROJECT construction in accordance with public works contract requirements. PROJECT does not include any work on CLOW SITE.

2. At the time of providing written notice of the award of a construction of PROJECT, DISTRICT shall invoice CLOW for CONSTRUCTION INVOICE. Invoice shall be supported by a copy of bid abstracts.

3. DISTRICT shall keep an accurate accounting of all DISTRICT construction costs and within forty-five (45) calendar days after DISTRICT acceptance of PROJECT as being complete, submit a final cost statement to CLOW. The final cost statement shall include any document, requirement, evidence, or information in DISTRICT's possession or

control that CLOW may reasonably request with regard to PROJECT, including without limitation: copies of the notice to proceed, notice of completion, any and all contracts and change orders, and invoices and checks for payment for completion of PROJECT. If PROJECT incurs change orders, DISTRICT shall also submit CHANGE ORDER INVOICE to CLOW.

4. DISTRICT, the County of Riverside, the State of California, or any of their duly authorized representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement.

5. DISTRICT shall record a LUC acceptable to DTSC and USEPA.

6. DISTRICT shall be solely responsible for construction of PROJECT and shall assume all ownership and responsibility for the operation and maintenance of PROJECT once the construction is completed in accordance with plans and specifications approved by DISTRICT. Except as otherwise stated in this Agreement, CLOW shall have no responsibility or liability for the construction, operation, and maintenance of the PROJECT.

### SECTION III

It is further mutually agreed:

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

To DISTRICT: RIVERSIDE COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
1995 Market Street  
Riverside, CA 92501  
Attn: Watershed Protection Division

To CLOW: CLOW VALVE COMPANY, A DIVISION OF  
MCWANE, INC.  
Post Office BOX 43327  
BIRMINGHAM, AL 35243  
Attn: Larry Bowers

2. Any waiver by a party of any breach of any one or more of the terms of this 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 a party to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof or estopping a party from enforcement hereof.

3. This Agreement is to be construed in accordance with the laws of the State of California. If any provision of this 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.

4. 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 the 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.

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

6. The rights and obligations of CLOW shall inure to and be binding upon all heirs, successors, and assignees.

7. CLOW shall not assign or otherwise transfer any of its rights, duties or obligations hereunder to any person or entity without the written consent of DISTRICT being first obtained. Any attempt to delegate or assign any interest herein without the consent of all Parties shall be deemed void and of no force or effect. In the event of any such transfer or assignment, CLOW expressly understands and agrees that it shall remain liable with respect to any and all of the obligations and duties contained in this Agreement.

8. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement.

9. The individual(s) executing this Agreement on behalf of CLOW certify that they have the authority within their respective company(ies) to enter into and execute this 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 Agreement.

10. This 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 Agreement may be changed or modified only upon the written consent of the Parties hereto.

11. This 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.

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

September 10, 2024  
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By Edwin Quenora  
for JASON E. UHLEY  
General Manager-Chief Engineer

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

APPROVED AS TO FORM:  
MINH C. TRAN  
County Counsel

ATTEST:  
KIMBERLY RECTOR  
Clerk of the Board

By Ryan D. Yabko  
RYAN D. YABKO  
Deputy County Counsel

By Kimberly Rector  
Deputy

(SEAL)

Reimbursement Agreement  
APN 107-030-023  
Temescal Creek Channel Access Road PCB Remediation  
Project No. 2-0-00050  
RM:blj  
07/23/24



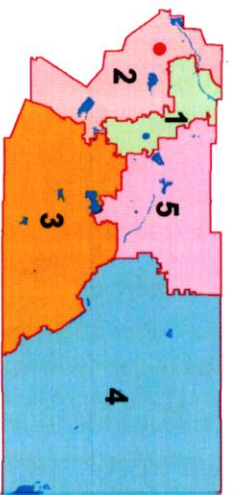
**CLOW VALVE COMPANY, A DIVISION  
OF MCWANE, INC.**

By Radia  
JEET RADIA  
Senior Vice President

Reimbursement Agreement  
APN 107-030-023  
Temescal Creek Channel Access Road PCB Remediation  
Project No. 2-0-00050  
RM:blj  
07/22/24



# EXHIBIT A



## Legend

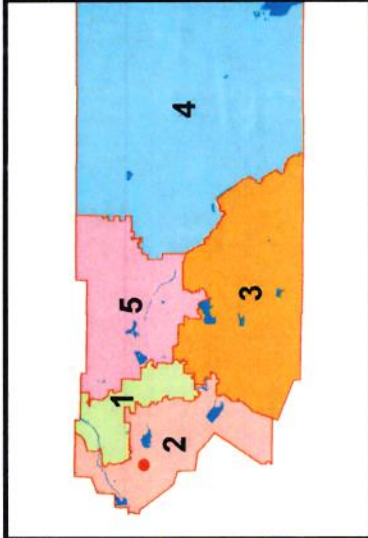
- Project Vicinity
- Existing Facilities
- Supervisory District
- CONTAMINATED SITE

## Description

### Temescal Channel PCB Remediation

The project involves 6 inch asphalt capping of a quarter mile of the southern access road of Temescal Creek Channel.





- Legend**
- Supervisorial District
  - Project Vicinity
  - Existing Facilities
  - City of Corona

**Description**

Temescal Creek Channel Access Road  
 PCB Remediation  
 Project No. 2-0-00050



# VICINITY MAP

