





COACHELLA VALLEY WATER DISTRICT  
SPECIAL PROVISIONS TO ENCROACHMENT PERMIT NO. 050512-3-TEM  
050512-4-XXX

- X 1. IT SHOULD BE NOTED that the interest of CVWD in said land is limited to an easement for flood control purposes and consequently this permit does not represent sole authorization required for the construction of said facility. Permittee shall obtain written approval of the owners of the fee title to CVWD's easement. Copies of the approvals shall be provided to CVWD prior to the start of work.
  
- X 2. Permittee is responsible for compliance with all local, state and federal environmental laws and regulations, including, but not limited to, California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), as well as obtaining and complying with all local, state and federal permit requirements, including, but not limited to, California Department of Fish and Game Streambed Alteration Agreement, California Regional Water Control Board Section 401 Permit and U.S. Army Corps of Engineers Section 404 Permit.
  
- 3. Permit not valid without Underground Service Alert identification number.
  
- 4. The permit is issued to the permittee for operation and maintenance of the facility only. The permittee and/or permittee's contractor shall apply for and obtain a Construction Encroachment Permit prior to commencing the initial installation of said facility. Any alternation or modification to the authorized installed facility will require the permittee and/or permittee's contractor to obtain new permits.
  
- X 5. Underground Service Alert identification number not required. Construction will not be done by permittee.
  
- X 6. Prior to commencement of any work of this permit, the contractor shall participate in a preconstruction conference with CVWD inspection staff. To schedule a preconstruction conference, contact CVWD's Inspector Supervisor.
  
- X 7. No work shall be done under the permit outside of the normal working hours of CVWD employees except in the presence of CVWD's inspector. Permittee shall first obtain the consent of CVWD's Inspector Supervisor.
  
- X 8. The permittee shall maintain the surface over facilities placed under any permit for a period of one year after completion of work under the permit. If CVWD's right-of-way is not restored as herein provided for, or if CVWD elects to make repairs, permittee agrees by acceptance of permit to bear the cost thereof.

9. The ingress and egress shall be in accordance with **Exhibit "A"**
10. Soil shall be removed such that a pilot channel is constructed in the center of the channel. Pilot channel shall be \_\_\_\_\_ feet in width with side slopes of \_\_\_\_\_ horizontal to \_\_\_\_\_ vertical.
- The pilot channel shall have a minimum depth of \_\_\_\_\_ feet.
11. Earth shall be removed on a uniform gradient and in such a manner that no holes are created which will cause ponding of runoff.
12. Permittee shall contact CVWD's Stormwater Engineer for location to deposit material within channel right-of-way.
13. The work authorized by this permit shall not conflict with the normal operation and maintenance of the Whitewater River Storm Channel.
14. Permittee shall not remove dirt within \_\_\_\_\_ feet of the edge of pavement and shall remove dirt from the area shown on attached Exhibit \_\_\_\_\_.
15. Deposit materials shall consist of clean fill dirt.
16. Permittee shall not deposit any asphalt, concrete, organic matter, chemicals, metal, paper, trash, or other illicit wastes within CVWD's right-of-way.
17. The work authorized by the permit is limited to the following: to allow temporary ingress and egress to Porcupine Properties LLC, well site utilizing CVWD's easements and fee owned land.
18. In the event any action is brought by any person for violation of any of the terms and conditions of this permit, CVWD shall be held harmless and assumes no responsibility for damages, claims or suits in connection with said permit.
19. Permittee shall pay \$140 per acre-foot for canal water plus \$11.50 per day gate charge.
20. Permittee to install pump in a manner that backwash does not run into the canal.
21. Construction meter must totalize in acre-feet. Flow shall be measured, preferably, in cubic feet, GPM is acceptable.
22. Permittee shall not block access to the Whitewater River Stormwater Channel. CVWD vehicles must be able to pass for its normal operation and maintenance activities.

23. Pump capacity shall not exceed 6 cfs.
24. Permittee, at its expense, shall maintain all excavations, embankments, haul roads, permanent access roads, plant sites, waste disposal areas, borrow areas and all other work areas free from dust.
25. Permittee shall provide a set of record drawings, including changes and all dimensions and lengths as required by CVWD, within 15 calendar days after completion of work.
26. Permittee shall not remove any channel lining between June 1 and October 31. Permittee shall replace any removed lining on or before June 1.
27. Permittee shall abide by stormwater discharge regulations adopted by the U.S. Environmental Protection Agency and by the State Water Resources Control Board.
28. In the event permit activity including, but not limited to, clearing, grading and excavation results in a land disturbance of one (1) or more acres, the permittee shall:

Submit a Notice of Intent (State Form II) in compliance with the terms of the general permit to discharge stormwater associated with construction activity to the State Water Resources Control Board and to CVWD.

State Water Resources Control Board  
Division of Water Quality  
Attention: Stormwater Permit Unit  
Post Office Box 1977  
Sacramento, California 95812

29. All work within CVWD's right-of-way shall conform to the following standards of construction (A copy of the below-checked edition or specification must be on-site at all times.):
- Standard Specifications State of California Department of Transportation (Caltrans), most current edition.
- Standard Specifications for Public Works Construction as written and promulgated by the Southern California Chapter of the American Public Works Association and the Southern California District of the Associated General Contractors of California (Green Book), most current edition.

\_\_\_\_ 29. (Continued)

\_\_\_\_ CVWD's Standard Specifications for Construction of:

\_\_\_\_ Domestic water systems

\_\_\_\_ including \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_ Sanitary sewer systems

\_\_\_\_ including \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_ 30. Prior to approval of a Permanent Encroachment Permit for outlets discharging into CVWD facilities, the permittee shall provide a letter from the land use authority for the project certifying that the project has been reviewed and determined to meet the requirements of the National Pollutant Discharge Elimination System permit and Waste Discharge Requirements for the discharge of stormwater in the Whitewater River Watershed, which is known as the MS4 Permit. This certification applies to requirements included in the Drainage Area Management Plan, Stormwater Management Plan, Stormwater Pollution Prevention Plan and Water Quality Management Plan described in the MS4 Permit and applicable to the project at the time of the application.

CVWD requires the permittee to implement control measures to the maximum extent practicable to prevent the discharge of nonstormwater generated runoff into the \_\_\_\_\_ channel. The permittee shall repair and maintain the outlet structure and the channel to mitigate any condition of nuisance and/or damage to the outlet structure and the channel caused by the permittee's discharge of nonstormwater as determined by CVWD. This maintenance and repair shall include, but not be limited to outlet concrete repairs, channel bottom scour repair, slope protection repair, vegetation clearing, ponded/nuisance water removal, etc. Failure to comply with these conditions of approval may result in CVWD revoking the Permanent Encroachment Permit associated with the outlet and removal or sealing of the outlet.

\_\_\_\_ 31. Permit not valid without CVWD receipt for drainage inlet fees.

X 32. Permit valid only so long as insurance is in effect.

X 33. Permittee shall provide at the preconstruction conference a plan for fugitive dust control in compliance with AQMD Rule 403.

- 34. No work shall be done under this permit without first contacting CVWD's Inspector Supervisor.
- 35. Permittee shall implement preventative measures, e.g., double walled tank, containment facilities, etc., to prevent chemical and petroleum spills.
- 36. Permittee is responsible for crop loss or crop damage as a result of the Permittee's actions.
- 37. Permittee shall retain a copy of this encroachment permit and all construction drawings or exhibits on-site at all times.
- 38. Permittee is prohibited from utilizing a hurricane pump in the canal. The pump and truck fill must be placed off of the canal road. A suction hose or pipe may be laid across the canal road with a dirt ramp or other means for vehicle traffic to cross. No excavating is allowed on the canal road or bank. CVWD vehicles and equipment must be able to travel the road unimpeded at all times. Equipment setup and operation shall be executed to prevent washouts of the canal road and bank. Backwash will not be permitted to be discharged back into the canal. CVWD facilities must be returned to original or better condition when the pump and appurtenances are removed.
- 39. Permittee shall notify the Zanjero Supervisor in writing three (3) days prior to commencing any construction on irrigation facilities/laterals. The lateral will not be permitted to be out of service for more than two (2) days unless other means of delivery of water to existing customers is established.

COACHELLA VALLEY WATER DISTRICT  
GENERAL PROVISIONS TO ENCROACHMENT PERMIT

1. DEFINITIONS:

A. CVWD means the Coachella Valley Water District.

B. INQUIRY IDENTIFICATION NUMBER means the number which shall be provided by Underground Service Alert (USA) to every person who contacts USA pursuant to section 4215.5 of the Government Code.

C. PERMIT means the Encroachment Permit issued to Permittee by CVWD.

D. PERMITTEE means the individual, public corporation, public utility or other agency or entity which has been issued a Permit.

E. INSTALLATION means any facility proposed to be constructed within CVWD's rights-of-way.

2. ACCEPTANCE OF PROVISIONS: It is understood and agreed by the Permittee that the doing of any work under this Permit shall constitute an acceptance of the provisions of this Permit and all attachments, and failure to comply with said Permit and attachments shall result in revocation of this Permit by CVWD. Each individual executing this permit hereby represents and warrants that he or she has the full power and authority to execute this Permit on behalf of the Permittee.

3. NO PRECEDENT ESTABLISHED: The Permit is issued with the understanding that any particular action is not to be considered as establishing precedent (1) on the question of the expediency of permitting any certain kind of encroachment to be erected within right-of-way of CVWD, or (2) as to the acceptability of any such permits as to any other or future situation.

4. RESPONSIBLE PARTY: No parties other than the named Permittee and its successors and assignees are authorized to work under this Permit.

5. NOTICE PRIOR TO STARTING WORK: Before starting work under the Permit, the Permittee shall notify CVWD's Inspector Supervisor or other designated employee, in writing, three working days prior to initial start of work and shall give CVWD the Inquiry Identification Number. When work has been interrupted for two working days or more an additional 24-hour notification, either verbal or in writing, is required before resuming work.

6. KEEP PERMIT ON THE WORK: The Permit or a copy thereof shall be kept at the site of the work and must be shown to any representative of CVWD or any law enforcement officer on demand.

WORK SHALL BE SUSPENDED IF PERMIT IS NOT AT JOB SITE.

7. CONFLICTING PERMITS: If a prior encroachment conflicts with the proposed work, the new Permittee must arrange for any necessary removal or relocation with the prior Permittee. Any such removal or relocation will be at no expense to CVWD.

8. PERMITS FROM OTHER AGENCIES: The Permittee shall, whenever the same is required by law, secure the written order or consent to any work under a permit from the Public Utilities Commission of the State of California, Cal-OSHA, or any other federal, state or local agency having jurisdiction and the Permit shall not be valid until such order or consent is obtained.

9. CLEAN UP RIGHT-OF-WAY: Upon completion of the work, all brush, timber, scraps, material, etc., shall be entirely removed and the right-of-way shall be left in as presentable a condition as existed before work started.

10. MAKING REPAIRS: In every case the Permittee shall be responsible for restoring to its former condition as nearly as may be possible any portion of CVWD's right-of-way which has been excavated or otherwise disturbed by Permittee, except where CVWD elects to make repairs and except where provision to the contrary is made in the written portion of the Permit.

11. STANDARDS OF CONSTRUCTION: All work shall conform to the standards of construction as noted in the Special Provisions of the Permit.

12. INSPECTION AND APPROVAL BY CVWD: All work shall be subject to inspection and approval by CVWD. The Permittee shall notify CVWD when the work has been completed.

13. FUTURE MOVING OF INSTALLATION: It is understood by the Permittee that whenever construction, reconstruction, or maintenance work on the right-of-way may be required by CVWD, the Installation shall, upon request of CVWD, be immediately moved, by and at the sole expense of the Permittee.

14. RESPONSIBILITY FOR INJURY OR DAMAGE: CVWD and all officers and employees thereof, shall not be responsible for injury to or death of any person including but not limited to the Permittee, persons employed by the Permittee, persons acting on behalf of the Permittee, or for damage to property, from any cause which might have been prevented by the Permittee, those persons employed by the Permittee, or persons acting in behalf of the Permittee.

The Permittee shall be responsible for any liability imposed by law and for injuries to or death of any person, including but not limited to the Permittee, persons employed by the Permittee, persons acting in behalf of the Permittee, or damage to property arising out of work permitted and done by the Permittee under a Permit, or arising out of the failure on the Permittee's part to perform its obligations under the Permit in respect to maintenance or any other obligations, or resulting from defects or obstructions, or from any cause whatsoever during the progress of the work, or at any subsequent time work is being performed under the obligations provided by and contemplated by the Permit.

The Permittee shall indemnify and save harmless CVWD and all officers and employees thereof, from all claims, suits or actions of every name, kind and description brought for or on account of injuries to or death of any person, including but not limited to the Permittee, persons employed by the Permittee, persons acting in behalf of the Permittee and the public, or damage to property resulting from the performance of work under the Permit, or arising out of the failure on the Permittee's part to perform its obligations under the Permit in respect to maintenance or any other obligations or resulting from defects or obstructions, or from any cause whatsoever during the progress of the work, or at any subsequent time work is being performed under the obligations provided by and contemplated by the Permit, except as otherwise

provided by statute. The duty of the Permittee to indemnify and save harmless includes the duties to defend as set forth in Section 2778 of the Civil Code.

The Permittee waives any and all rights to any type of express or implied indemnity against CVWD, its officers or employees.

It is the intent of the parties that the Permittee will indemnify and hold harmless CVWD, its officers and employees from any and all claims, suits or actions as set forth above regardless of the existence or degree of fault or negligence, whether active or passive, primary or secondary, on the part of CVWD, the Permittee, persons employed by the Permittee, or persons acting in behalf of the Permittee.

15. **INSURANCE:** Prior to and at all times after executing the Permit the Permittee shall carry and maintain, at its sole cost and expense, not less than the following coverage and limits of insurance which shall be maintained within insurers and under policy forms satisfactory to CVWD.

- (a) Commercial General Liability Insurance written on an occurrence basis of at least \$1,000,000 per occurrence, for bodily injury and property damage including coverage for contractual liability, personal injury, independent contractors, broad form property damage, ongoing and products and completed operations.
- (b) Commercial Automobile Liability Insurance written on a per occurrence basis with a single limit of liability in the amount of \$1,000,000 for bodily injury and property damage. Said policy shall include coverage for owned, non-owned, leased, and hired cars.
- (c) Workers' Compensation Insurance as required by the Labor Code or be legally self-insured pursuant to Labor Code section 3700 et. seq. along with Employer's Liability limits of \$1,000,000.
- (d) All of Permittee's policies shall contain the following provisions and endorsement forms that:
  - (i) Names the Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds (Except workers' compensation); and,
  - (ii) The insurer waives all right of subrogation against CVWD, its employees, directors, officers, and agents; and,
  - (iii) Written notice shall be given to CVWD at least ten (10) days prior to termination, cancellation, or reduction of coverage in the policy; and,
  - (iii) Such insurance is primary insurance as respects to the interests of the additional insured and that any other insurance maintained by the additional insured is excess and not contributing insurance with the insurance required by Permittee and,
  - (v) Apply a "Cross Liability" or "Severability of Interest" clause to CVWD; and,
  - (vi) Have deductibles which are not greater than those normally maintained for similar Encroachment Permits in the State of California.
  - (vii) Such insurance, subject to all of its other terms and conditions, applies to the liability assumed by Permittee under the Permit.
- (e) The Permittee shall deliver to CVWD, the certificates of insurance and endorsements covering all policies providing the required insurance referred to above, and shall be signed on behalf of the insurer by its authorized representative. Permittee shall, upon written request by CVWD, furnish copies of such policies, certified by an authorized representative of the insurer.

(f) The foregoing requirements as to the types, limits and CVWD's approval of insurance coverage to be maintained by Permittee are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Permittee under the Permit.

16. CARE OF DRAINAGE: If the work contemplated herein shall interfere with the established drainage, provision shall be made by the Permittee for the change in drainage as may be directed by CVWD.

17. AS-BUILT PLANS: Upon completion of the work, as-built plans of sufficient accuracy shall be submitted to CVWD to determine location of the Installation.

18. COST OF WORK: Unless otherwise stated on the Permit or separate written agreement, all costs incurred for work within the right-of-way pursuant to this Permit shall be borne by the Permittee and Permittee hereby waives all claims for indemnification or contribution from CVWD for such work.

19. PERFORMANCE WARRANTY: Bond may be required of the Permittee whenever, in the judgment of CVWD, it becomes necessary or advisable to guarantee performance.

20. DURATION: This Permit may be cancelled by CVWD upon 30 days written notice to the Permittee unless there are no valid required insurance certificates. If there are no valid insurance certificates, cancellation of the permit will be upon the expiration of the insurance certificates.

21. CVWD RIGHT AND RESPONSIBILITY:

A. If the Permit involves work within the right-of-way of any CVWD stormwater channel, the provisions of Paragraphs B. and C., following, shall apply.

B. CVWD reserves the right to maintain and operate said channel, removing therefrom the Installation, obstructions or interference when such Installation or obstruction substantially interferes with the free flow of the channel waters or interferes with discharge by CVWD of its public duties and responsibilities; further, CVWD reserves the right to realign the channel, changing the course and depth thereof and/or to make other changes and improvements to the channel, as CVWD deems necessary.

C. Permittee recognizes the responsibility of CVWD to make such changes to the channel as stipulated above and to maintain the integrity of said channel during periods of stormwater runoff and waives and releases CVWD from any claim of any type for the damage or destruction of the Installation caused by CVWD, or its employees, or contractors in performance of its duties and public functions. Permittee agrees that any repairs, reconstruction, restoration, or relocation of the Installation damaged or destroyed as defined herein shall be performed by and at the sole expense of the Permittee.

22. SUBORDINATION OF WORK: The proposed work shall be subordinated to any operations which CVWD may conduct during the permit period, and shall be coordinated with the work of CVWD forces or CVWD contractors so that there shall be no delay to, nor interference with, CVWD operations.

23. LOCATION OF UTILITIES: Permittee shall be fully responsible to ascertain location of all facilities constructed by others, and to place the encroachment in a manner which will not damage, conflict

or interfere with any existing encroachment. Prior to making any excavation within right-of-way, Permittee shall call Underground Service Alert at 1-800-422-4133.