

No Recording Fee
Required Per
Government Code
Section 27383

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

COACHELLA VALLEY WATER DISTRICT
Post Office Box 1058
Coachella, California 92236

(Space above this line is for Recorder's Use)

APN: 600-020-003

File: 0652.3
0655.

ENCROACHMENT PERMIT NO. 050729-4-047

ISSUED BY

COACHELLA VALLEY WATER DISTRICT,
a public agency of the State of California ("CVWD")

IN FAVOR OF

La Quinta Housing Authority ("Permittee")

Doc. No. 050729-4-047

THIS ENCROACHMENT PERMIT ("Permit") is issued as of MAY 30, 2013 ("Effective Date") by CVWD in favor of Permittee.

RECITALS

A. CVWD is the owner of certain real property located in the County of Riverside, State of California and legally described on **Exhibit "A"** attached hereto and incorporated herein by this reference ("CVWD Property").

B. Pursuant to Construction Encroachment Permit No. 050729-4-047C, issued to Opositimus Construction, Inc. by CVWD, Permittee shall construct or cause to be constructed the facilities or improvements shown on certain construction drawings on file with CVWD at its headquarters and referenced on **Exhibit "B"** attached hereto and by this reference incorporated herein ("Permittee Facilities"). Permittee desires to obtain this Permit to operate and maintain Permittee Facilities.

C. CVWD hereby authorizes Permittee to operate and maintain the Permittee Facilities on CVWD Property on the terms and conditions set forth herein.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. All of the Recitals are hereby incorporated herein by this reference as to the same extent as though hereinagain set forth in full.

2. The term of this Permit shall commence on the Effective Date and shall expire or terminate as provided in this Permit.

3. This Permit is subject to: (a) the special provisions attached hereto as **Exhibit "C"** and by this reference incorporated herein; and (b) the general provisions attached hereto as **Exhibit "D"** and by this reference incorporated herein.

4. Unless otherwise provided herein, any notice to be given by any party hereunder must be given in writing and delivered in person, or by reputable nationwide overnight courier (e.g., Federal Express), or forwarded by certified or registered mail, postage prepaid, return receipt requested, or transmitted by electronic facsimile transmission (with electronic confirmation of receipt) at the address indicated below or transmitted by e-mail, unless the party giving such notice has been notified, in writing, of a change of address:

CVWD: Coachella Valley Water District
P.O. Box 1058
85-995 Avenue 52
Coachella, California 92236
Telephone: 760-398-2651
Facsimile: 760-398-3711
cvwdmail@cvwd.org

PERMITTEE: La Quinta Housing Authority
P.O. Box 1504
La Quinta, California 92247
(760) 777-7000

Any such notice is effective on the date on which such notice is delivered, if notice is given by

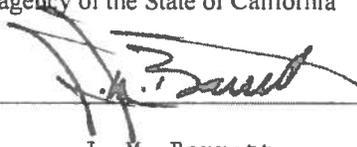
personal delivery or overnight courier, or electronic transmission (with electronic confirmation of receipt) or if notice is sent through the United States mail, on the date of actual delivery as shown by the addressee's receipt or upon the expiration of three (3) days following the date of mailing, whichever first occurs.

5. This Permit may be signed and delivered in any number of counterparts, each of which, when signed and delivered, shall be an original, but all of which shall together constitute one and the same agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS PERMIT AS OF THE DATE FIRST ABOVE WRITTEN.

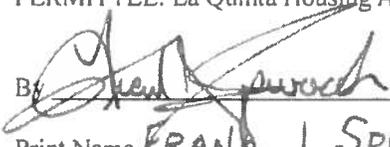
COACHELLA VALLEY WATER DISTRICT,
a public agency of the State of California

By  5.30.13

Print Name J. M. Barrett

Its General Manager

PERMITTEE: La Quinta Housing Authority

By 

Print Name FRANK J. SPEJACEK

Its EXECUTIVE DIRECTOR

By _____

Print Name _____

Its _____

State of California)
)
County of Riverside)

On May 23, 2013, before me, SUSAN MAYSELS, Notary Public, personally appeared FRANK J. SPEVACEK who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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.

Signature *S. Mayseles*



(seal)

DOCUMENT:
ENCROACHMENT PERMIT NO. 050729-4-047 issued by CVWD in favor of
LQ Housing Authority

EXHIBIT LIST

EXHIBIT "A"	DESCRIPTION OF CVWD PROPERTY
EXHIBIT "B"	DESCRIPTION OF PERMITTEE FACILITIES AND REFERENCE TO CONSTRUCTION DRAWINGS
EXHIBIT "C"	SPECIAL PROVISIONS
EXHIBIT "D"	GENERAL PROVISIONS

EXHIBIT "A"
TO
ENCROACHMENT PERMIT

DESCRIPTION OF CVWD PROPERTY

ALL THAT REAL PROPERTY IN THE CITY OF LA QUINTA, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 7 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

ALL THAT REAL PROPERTY DESCRIBED IN FINAL ORDER OF CONDEMNATION (PARCEL 19) RECORDED DECEMBER 12, 1978 AS INSTRUMENT NO. 260944, OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 600-020-003

EXHIBIT "B"

TO

ENCROACHMENT PERMIT

DESCRIPTION OF PERMITTEE FACILITIES AND
REFERENCE TO CONSTRUCTION DRAWINGS

PERMITTEE SHALL CONSTRUCT OR CAUSE TO BE CONSTRUCTED THE FACILITIES OR IMPROVEMENTS SHOWN ON CONSTRUCTION DRAWING NOS. 38948 THROUGH 39850, ON FILE WITH THE COACHELLA VALLEY WATER DISTRICT, HEADQUARTERS LOCATED AT 85-995 AVENUE 52, COACHELLA, CA 92236.

PERMISSION IS HEREBY GRANTED TO LA QUINTA HOUSING AUTHORITY, TO OPERATE AND MAINTAIN A 54-INCH RCP STORM DRAIN AND OUTLET STRUCTURE, U TYPE HEADWALL, OUTLET SCREEN, AND 18-INCH THICK RIP RAP WITHIN THE LA QUINTA EVACUATION CHANNEL RIGHT-OF-WAY.

THE PROJECT IS WITHIN ASSESSOR PARCEL NO. 600-020-003 LOCATED SOUTH OF HIGHWAY 111 AND EAST OF DUNE PALMS ROAD IN THE CITY OF LA QUINTA.

THIS PROJECT IS LOCATED IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 5 SOUTH, RANGE 7 EAST, SAN BERNARDINO MERIDIAN.

EXHIBIT "C"
TO
ENCROACHMENT PERMIT
SPECIAL PROVISIONS

COACHELLA VALLEY WATER DISTRICT
SPECIAL PROVISIONS TO ENCROACHMENT PERMIT NO. 050729-4-047

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.
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.
5. Underground Service Alert identification number not required. Construction will not be done by permittee.
6. Prior to commencement of any work of this permit, the contractor shall participate in a preconstruction conference with CVWD's inspection staff. To schedule a preconstruction conference, contact the CVWD's Inspector Supervisor.
7. No work shall be done under the permit outside of the normal working hours of CVWD employees except in the presence of the CVWD inspector. Permittee shall first obtain the consent of CVWD's Inspector Supervisor.
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 work shall be constructed in accordance with CVWD Drawing Nos. 38948 through 38950.

____ 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.

X 13. The work authorized by this permit shall not conflict with the normal operation and maintenance of the La Quinta Evacuation 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.

X 16. Permittee shall not deposit any asphalt, concrete, organic matter, chemicals, metal, paper, trash, or other illicit wastes within CVWD's right-of-way.

X 17. The work authorized by the permit is limited to the following: To operate and maintain a 54-inch rcp storm drain and outlet structure, u type headwall, outlet screen, and 18-inch thick rip rap within the La Quinta Evacuation Channel right-of-way.

X 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.

X 22. Permittee shall not block access to the La Quinta Evacuation 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 the 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 Standard Specifications for Construction of:

____ Domestic water systems

____ including _____

____ Sanitary sewer systems

____ including _____

X 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 La Quinta Evacuation 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.

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

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

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.
40. Permittee shall comply with all local, state, and federal environmental laws and regulations.

EXHIBIT "D"
TO
ENCROACHMENT PERMIT
GENERAL PROVISIONS

COACHELLA VALLEY WATER DISTRICT
GENERAL PROVISIONS TO ENCROACHMENT PERMIT

1. The Permit is issued with the understanding that any particular action is not to be considered as establishing precedent (a) on the question of permitting any certain kind of encroachment on CVWD Property, or (b) as to the acceptability of any such permits as to any other or future situation.
2. Before starting any work on the Permittee Facilities (“Work”) under the Permit, the Permittee shall contact CVWD’s Inspection Division Supervisor and arrange for a pre-construction meeting. No Work shall be performed prior to the pre-construction meeting. When the Work has been interrupted for two (2) business days or more Permittee shall obtain from the Inspection Supervisor a written consent to resume the Work.
3. The Permit or a copy thereof must be shown to any representative of CVWD or any law enforcement officer on demand. In the event the Permit is not on the job site, CVWD may, at its option, require immediate suspension of Work at the job site by oral notice to the Permittee’s employees, contractors or representatives located at the job site.
4. If an existing encroachment or improvement conflicts with the proposed Work, the Permittee must arrange, at its sole cost and expense, for any removal or relocation of such encroachment with the owner thereof. Any such removal or relocation will be at no expense to CVWD.
5. The Permittee shall, whenever the same is required by law, secure the written order, approval, authorization or consent (collectively, “Approval”) to complete the Work from any federal, state or local public or quasi-public agencies having jurisdiction over the Work. In addition to the foregoing, Permittee shall obtain an Approval from the owner of the real property on, under, and in which the Work is to be accomplished in the event CVWD is not the owner thereof. This Permit shall not be valid until such Approvals are obtained.
6. All Work shall be completed at no cost or expense to CVWD in conformance with all laws, rules and regulations of all governmental or quasi-governmental agencies and the owners of the real property on, under, and in which the Work is to be accomplished.
7. Upon completion of the Work, all brush, timber, scraps, material, etc., placed at the job site by or on behalf of Permittee shall be entirely removed and Permittee shall be responsible for restoring CVWD Property to its former condition as nearly as may be possible. In addition thereto, it is understood by the Permittee that whenever construction, reconstruction, or maintenance work on CVWD Property may be required by CVWD, the Work shall, upon request of CVWD, be immediately ceased and/or moved, by and at the sole expense of the Permittee. In the event Permittee fails to do any of the foregoing, CVWD may, but shall have no obligation, to complete any or all of the tasks at Permittee’s cost and expense. Such cost shall be paid by Permittee within ten (10) days of such party’s receipt of an invoice from CVWD.
8. All Work shall be subject to inspection and approval by CVWD. The Permittee shall notify the Inspection Division when the Work has been completed. If any inspection by CVWD indicates that the Work and/or Permittee Facilities interfere with the use of CVWD Property by CVWD, the owner of the underlying real property or any prior right holder, in CVWD’s sole and absolute discretion, Permittee shall remove or replace the Permittee Facilities in such a fashion as shall be directed by CVWD. In the event Permittee fails to do so, CVWD may, but shall have no obligation, to complete any or all of the tasks at Permittee’s cost and expense. Such cost shall be paid by Permittee within ten (10) days of such party’s receipt of an invoice from CVWD.
9. CVWD shall not be liable for the replacement of decorative concrete and other surface improvements, including, but not limited to, alternative paving methods which CVWD may be required to remove in the future to gain access to CVWD facilities or if CVWD removes any or all Permittee Facilities pursuant to the terms

hereof. CVWD shall not be responsible for seal coating, overlaying or otherwise resurfacing street improvements. Permittee shall be responsible for all costs having to do with the same. Permittee hereby waives the right of claim, loss, damage or action against CVWD or its Representatives (as defined below) arising out of or in connection with any Costs (as defined below) or destruction of the Permittee Facilities from CVWD exercising any right with respect to CVWD Property, except if caused by the gross negligence or willful misconduct of CVWD or its Representatives. CVWD shall have no liability or responsibility to restore any Permittee Facilities on CVWD Property to any condition after exercising any right with respect to CVWD Property or to pay for loss or destruction of the same. Permittee shall be responsible for all costs having to do with the same.

10. Permittee shall assume the defense of, indemnify and hold harmless CVWD and their respective Representatives (as defined herein) (the "Indemnified Parties") and each and every one of them, from and against all actions, causes of action, demands, liabilities, costs, damages, claims, losses and expenses (including attorneys' fees) (collectively, "Costs") of every type and description to which they may be subjected or put, by reason of, or resulting from: (a) this Permit; (b) any act or omission of Permittee or his/her/its/their Representatives in connection with any matters contemplated by this Permit; (c) any death, bodily injury, property damage or casualty, including, but not limited to any CVWD facilities caused in whole or part by Permittee or his/her/its/their respective Representatives; (d) any breach by Permittee of its obligations under this Permit; (e) any enforcement of CVWD of any provision of this Permit; and (f) the maintenance, operation, repair, replacement or improvement of the Permittee 's Facilities, except for Costs ultimately established by a court of competent jurisdiction to have been caused by the gross negligence or willful misconduct of the Indemnified Parties. Except as set forth in the exception of the immediately preceding sentence, Permittee, as a material part of the consideration of this Permit, waive all claims or demands against CVWD and the other Indemnified Parties for any such Costs. No provision of this Permit shall in any way limit the extent of the responsibility of Permittee for payment of damages resulting from his/her/its/their operations or the operations of any of his/her/its/their respective Representatives. Permittee further covenants and agrees to pay, or to reimburse the Indemnified Parties for any and all Costs arising out of or in connection with Permittee's obligations pursuant to this Permit, except Costs arising through the gross negligence or willful misconduct of the Indemnified Parties. The Indemnified Parties shall have the right, at Permittee's expense, to commence, to appear in, or to defend any action or proceeding, arising out of and in connection with the Permit, and in connection therewith, may pay all necessary expenses if Permittee fails upon reasonable notice to so commence, appear in or defend any action or proceeding with counsel reasonably acceptable to CVWD. Permittee shall be furnished with copies of bills relating to the foregoing upon request. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any one of the foregoing or reasonably under the control of any of the foregoing or for whose acts any of the foregoing may be liable.

11. 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 with 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 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; except for non-payment of premium; and,
 - (iv) 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.

12. All costs incurred for the Work shall be borne by Permittee and Permittee hereby waives all claims for indemnification or contribution from CVWD for the Work.

13. One or more bonds, including, without limitation payment and performance bonds and guarantee bonds, or certificate(s) of deposit ("CD") or letters of credit ("LOC") may be required of the Permittee whenever, in the sole and absolute judgment of CVWD, it becomes necessary or advisable to guarantee performance. The bonds, CD or LOC shall be in such form and content as shall reasonably be acceptable to CVWD.

14. This Permit may be cancelled by CVWD upon thirty (30) days written notice to the Permittee. If there are no valid insurance certificates, the Permit will terminate upon the failure to provide or termination or expiration of the insurance certificates, or any of them.

15. If the Permit involves Work within the right-of-way of any CVWD stormwater channel, the provisions of Paragraphs (a) and (b) following, shall apply.

(a) 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.

(b) 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 and CVWD Indemnitees from any claim of any type for the damage or destruction of the installation caused by CVWD, or its Representatives. Permittee and Permittee's Representatives agree that any repairs, reconstruction, restoration, or relocation of the Work damaged or destroyed as defined herein shall be performed by and at the sole expense of the Permittee.

16. The Work and the Permittee Facilities 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.

17. Permittee shall be fully responsible to ascertain location of all facilities constructed by others, and to place the encroachment or perform the Work in a manner which will not damage, conflict or interfere with any existing encroachment improvement or facility. Prior to making any excavation, Permittee shall call Underground Service Alert at 1-800-422-4133.

18. The following additional general provisions shall apply:

(a) Time is of the essence of this Permit and each and every term and provision thereof.

(b) This Permit shall be construed as if prepared by all of the parties hereto. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Permit against the party that has drafted it is not applicable and is waived.

(c) No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party hereto of any right, power or privilege hereunder operate as a waiver of any other right, power or privilege hereunder, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise of any other right, power or privilege hereunder.

(d) 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 named parties.

(e) The parties agree that any action or proceeding to enforce or relating to this Permit shall be brought exclusively in the Federal or State courts located in Riverside County, California, and the parties hereto consent to the exercise of personal jurisdiction over them by any such court for purposes of any such action or proceeding.

(f) This instrument, together with the exhibits attached hereto and other writings referenced herein, contain the entire agreement between the parties relating to the subject matter hereof and supersede any and all prior agreements between the parties, oral or written, and any and all amendments thereto. Any oral representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing, signed by the parties to be charged.

(g) In the event of any litigation or other action between the parties arising out of or relating to this Permit or the breach thereof, the prevailing party shall be entitled, in addition to such other relief as may be granted, to its reasonable costs and attorneys' fees.

(h) The invalidity or illegality of any provisions of this Permit shall not affect the remainder of the Permit.

(i) Each party hereto agrees to execute and deliver such other documents and perform such other acts as may be necessary to effectuate the purposes of this Permit.

(j) This Permit is entered into within the State of California, and all questions concerning the validity, interpretation and performance of any of its terms or provision or any of the rights or obligations of the parties hereto shall be governed by and resolved in accordance with the laws of the State of California.

(k) The terms and provisions set forth in this Permit shall be deemed provisions, terms and/or covenants running with CVWD Property in accordance with applicable law, including, without limitation, Section 1468 of the California Civil Code and shall pass to and be binding upon the successor owners of the Permittee Facilities. As such, all successor owners of the Permittee Facilities will have any of the rights, responsibilities and liabilities of Permittee, as if such person or entity originally executed this Permit in place and stead of Permittee. No transfer of the Permittee Facilities shall relieve Permittee (or any successor owner of the Permittee Facilities) of any responsibility or liability under this Permit.