CITY CLERK
ORIGINAL

C-8651
10/08/2013

SALT RIVER PROJECT
PROPERTY USE LICENSE

DATE: May 9, 2013 LICENSE #: **1300171**

The Salt River Project Agricultural Improvement and Power District (hereinafter referred to as Salt River Project or SRP) hereby grants a License to install facilities on the property described herein for the following purpose(s):

FIBER OPTIC CONDUIT INSTALLATION

The Licensee, has read and understands the Special Conditions below (and in the Exhibit attached) and the General Conditions, and agrees to these conditions for the installation at the following location(s):

UNDERCROSSINGS (2) --------67TH AVENUE AND THUNDERBIRD ROAD
(6.0E-16.0N) Approximately the Southwest corner of Section 7, T3N-R2E

PARALLELING ----------THUNDERBIRD ROAD, 67TH AVENUE TO 63RD AVENUE
(6.0E TO 6.5E-16.0N) From approximately the Southwest to the South ¼ corner of Section 7, T3N-R2E

UNDERCROSSING ----------63RD AVENUE AND THUNDERBIRD ROAD
(6.0E-16.0N) Approximately the Southwest corner of Section 7, T3N-R2E

SPECIAL CONDITIONS

A. CONSTRUCTION ITEMS:

QUANTITY	ITEM
3	Fiber Optic Undercrossings
¼ mi.	Paralleling Irrigation

B. DRAWINGS:

PROJECT	CONSULTANT
City of Glendale ITS Project	Lee Engineering

ISSUED BY: *Susana Ortega*
SRP Water Engineering, (602) 236-5799

ACCEPTED: B Fischer
Licensee (Owner/Agent)

CITY OF GLENDALE
Licensee

5850 W. Glendale Avenue.
Address

Glendale, AZ 85301
City, State Zip

Please remit your signed document to:
Salt River Project
P.O. Box 52025
Phoenix, Arizona 85072-2025
Water Engineering/PAB 106

ATTEST: Darcie McCracken
City Clerk

Approved as to form
City Attorney

WARNING: Licensee is required to notify the SRP inspector, Tom Brennan @ 602-236-4953, a minimum of 72 hours before starting any construction in or around SRP irrigation facilities. Licensee's contractor must have a copy of this construction license on the job site while working around irrigation facilities. Failure to comply will result in a temporary shut down of that portion of construction until proof of a valid construction license has been established.

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C. SPECIFICATIONS:

1. Twelve inches minimum clearance is to be maintained below Salt River Project's irrigation pipe.

2. When paralleling irrigation pipe, a minimum of 24 inches horizontal clearance is to be maintained between the pipe and the open excavation.

3. When paralleling an open ditch, it is the Licensee's responsibility to align his installation with sufficient clearance so the ditch remains undisturbed.

4. If an unlined ditch is disturbed, or if a lined ditch is damaged during construction, it shall be concrete lined as specified below:
   a. Lining to extend a minimum of 36 inches beyond disturbed portion of bank(s).
   b. Concrete to be a minimum of 3 inches thick if hand placed or 1-1/2 inches if pneumatically placed.
   c. Lining to be 4" x 4" WO. 5xWO. 5 welded wire fabric.
   d. 12 inch key required for full parameter of restoration.
   e. Lining is to be sprayed with white pigmented curing compound.
   f. In the event the damaged section of the ditch exceeds 100 feet in length, the ditch shall be slipform lined to SRP's design and specifications.

5. Any storm drain connector pipe, connected to the SRP irrigation system that is to be abandoned shall be done so with a permanent brick and mortar plug.

6. Backfill is to be in compliance with M.A.G. specifications or the governing municipality's supplement to M.A.G.

D. NOTICE TO PROCEED:

Issuance of this License does not guarantee a dry-up due to seasonal water demands. The contractor is required to notify the SRP inspector, Tom Brennan (602) 236-4953, a minimum of 72 hours before starting any construction in or around SRP irrigation facilities.

E. BLUESTAKE:

Prior to construction, Licensee shall contact Bluestake (602-263-1100) and such other locators/utilities as needed to locate and flag all existing underground utilities.

F. DUST CONTROL:

The Licensee assumes sole responsibility for obtaining a dust control permit and complying with any required dust control plan pursuant to Maricopa County or other municipal requirements.

G. ARCHAEOLOGICAL:

As required by federal law, state law, and SRP Archaeological Policy 8-70-1, any cultural or fossil remains, both historical and pre-historical, discovered during construction, must be immediately reported to the SRP inspector.

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GENERAL CONDITIONS

1 Licensee warrants and represents that it is qualified to perform, or will contract with qualified parties to perform, the undertaking which is the subject of the License

2. Licensee shall obtain such other licenses, permits, and agreements as required by other governing bodies having jurisdiction over the Licensed Property.

3. Licensee shall perform any work on the Licensed Property in conformity with all applicable safety standards and regulations, and in a manner to avoid the creation of potentially dangerous conditions and harm to others

4 If the Licensee fails to notify the SRP inspector as required herein to perform the work, this License will be immediately revoked, the work stopped, and the Licensee liable for any resulting damage to the property of others, including, though not limited to, that of the Salt River Project. If damage to Licensee's unauthorized installation occurs, Licensee waives all rights and claims for such damage and assumes sole responsibility for same. NOTE SRP cannot assure a dry-up. A dry-up may only be possible for brief periods and not possible at certain times of the year.

5. In the event that Licensee's installation does not comply with the specifications and conditions stated herein or upon revocation of this License, Licensee shall remove at its sole cost, within ninety (90) days after written notice from SRP, any improvements or installations placed on the Licensed Property pursuant to this License, and restore the Licensed Property to the satisfaction of Salt River Project. In the event that Salt River Project determines that the Licensed Property must be restored immediately for operational purposes, or Licensee fails to remove the installations or improvement within the time specified above or restore the Licensed Property, the Salt River Project may remove the installations from the Licensed Property and/or restore the Licensed Property, and the cost so incurred (as solely and conclusively determined by the Salt River Project) shall be paid by Licensee within ten (10) days after receipt of a statement of such cost. Licensee hereby releases the United States of America, the Salt River Valley Water Users' Association, and the Salt River Project Agricultural Improvement and Power District from all claims for damages that result to the Licensee or others by reason of such removal.

6. Should any Salt River Project facilities be damaged by Licensee, such facilities shall be repaired at Licensee's sole expense, to the satisfaction of Salt River Project Salt River Project reserves the right, depending upon the nature and extent of the damage, to make such repairs and bill Licensee for all costs associated therewith.

7. Licensee shall be liable for any and all damages to the property of the United States of America, Salt River Project Agricultural Improvement and Power District, or any other party or parties by reason of the exercise of the privilege herein granted to Licensee Licensee agrees to release, indemnify and hold harmless the United States of America, the Salt River Valley Water Users' Association, and the Salt River Project Agricultural Improvement and Power District, from and against any claims, actions, costs, expenses, or other liabilities for property damage or personal injuries in any way caused by or related to Licensee's exercise of rights herein granted, except those caused solely and exclusively by the negligence of the Salt River Project. Licensee enters upon the Licensed Property of at its own risk

8. Should Licensee fail to start construction within one (1) year following execution of this License, this License is automatically revoked and terminated, and Licensee shall secure a new license to construct the installation under conditions and specifications set forth by SRP.

9. All facilities installed pursuant to this License are subject to inspection and approval by Salt River Project, and must comply with the specifications and conditions herein (and attached) Said inspection, however, shall not constitute or be construed as more than a determination that the specifications set forth herein have been complied with by Licensee and is not to be considered as an approval or ratification by Salt River Project of the quality or fitness of Licensee's improvements

10. Licensee agrees to keep in proper maintenance and repair any facilities installed or constructed on the Licensed Property.

11 This License shall continue in effect so long as it is considered to be expedient as conclusively determined by Salt River Project, and shall be revocable upon ninety (90) days written notice from SRP.

12. Licensee shall move or modify any facility installed or constructed on the Licensed Property at its sole expense if at any time SRP determines that the existence of said facility conflicts with the maintenance of, or future installations of Salt River Project's facilities.

13. Licensee acknowledges that Salt River Project makes no warranty or representation as to the nature of its rights to the Licensed Property and consent by the fee owner, if other than SRP or the United States, is not to be implied from this License.

14. Notwithstanding references in this License to contractors of Licensee, if any, all obligations, duties, liabilities, responsibilities and warranties to Licensor herein stated are those of Licensee, and not of any third party. To the extent Licensee is permitted herein to authorize third parties to perform under this License, doing so neither relieves Licensee of obligations, duties, liabilities, responsibilities and warranties to Licensor, nor constitutes any limitation on Licensor's rights to pursue remedies exclusively against Licensee for breaches of same.

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EXHIBIT/ADDENDUM

The provisions of this Exhibit derive from federal regulations, policies, directives and standards applicable to most uses of federal reclamation land and facilities Most such uses require a "Use Authorization" from the United States pursuant to 43 CFR Part 429 and the agreement to which this Exhibit is attached is deemed to be such a "Use Authorization" For purposes of this Exhibit/Addendum, "Grantee" shall mean the person or entity with whom SRP has contracted on the agreement to which the Exhibit is attached The terms of this Exhibit/Addendum are mandated by multiple separate relevant authorities under federal law, therefore could be duplicative or contradictory both within the Exhibit/Addendum and with the terms of the agreement to which it is attached In the event of such duplication, or any conflict among such terms, the terms should be interpreted and followed in a manner most favorable to the United States

INDEMNITY

The Grantee agrees to indemnify the United States for, and hold the United States and all of its representatives harmless from, all damages resulting from suits, actions, or claims of any character brought on account of any injury to any person or property arising out of any act, omission, neglect, or misconduct in the manner or method of performing any construction, care, operation, maintenance, supervision, examination, inspection, or other activities of the Grantee

TERMINATION

The United States, acting through the Bureau of Reclamation ("Reclamation"), Department of the Interior, reserves rights to construct, operate, and maintain public works now or hereafter authorized by the Congress without liability for termination of the Use Authorization or other damage to the Grantee's activities or facilities

Reclamation may, at any time and at no cost or liability to the United States, terminate any Use Authorization in the event of a natural disaster, a national emergency, a need arising from security requirements, or an immediate and overriding threat to public health and safety

Reclamation may, at any time and at no cost or liability to the United States, terminate any Use Authorization for activities other than existing authorized private exclusive recreational or residential use as defined under 43 CFR Part 429 2 if Reclamation determines that any of the following apply.

(a) The use has become incompatible with authorized project purposes, project operations, safety, and security,
(b) A higher public use is identified through a public process described at §429 32(a)(1), or
(c) Termination is necessary for operational needs of the project

Reclamation may, at any time and at no cost or liability to the United States, terminate any Use Authorization if Reclamation determines that the Grantee has failed to use the Use Authorization for its intended purpose Further, failure to construct within the timeframe specified in the terms of the Use Authorization may constitute a presumption of abandonment of the requested use and cause termination of the Use Authorization

Reclamation may, at any time and at no cost or liability to the United States, terminate any Use Authorization if the Grantee fails to comply with all applicable Federal, State, and local laws, regulations, ordinances, or terms and conditions of any Use Authorization, or to obtain any required permits or authorizations

SEVERABILITY OF CONTRACT TERMS

Each provision of any Use Authorization shall be interpreted in such a manner as to be valid under applicable law, but if any provision of the Use Authorization shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or Prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the Use Authorization as a whole

TERMINATION

This Use Authorization will terminate and all rights of the Grantee hereunder will cease, and the Grantee will quietly deliver to the United States possession of the premises in like condition as when taken, reasonable wear and damage by the elements excepted

(a) At the expiration of the term of the Use Authorization, or,
(b) Without notice, upon default in payment to the United States of any installment of rental charges if any, or,
(c) Upon written notice to the Grantee served by Reclamation, or,
(d) After failure of the Grantee to observe any of the conditions of this Use Authorization because of failure to observe such condition

If this Use Authorization is terminated under (d), the United States reserves the right to bar the Grantee from the authorization to use Reclamation land on the Salt River Project for a period of time, as determined by Reclamation's Area Manager

OFFICIALS NOT TO BENEFIT

No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon

HAZARDOUS MATERIALS

(a) The Grantee may not allow contamination or pollution of Federal lands, waters or facilities and for which the Grantee has the responsibility for care, operation, and maintenance by its employees or agents and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants

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(b) *The Grantee shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in Federal lands, waters or facilities*

(c) *"Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U S C §9601, et seq , and the regulations promulgated pursuant to that Act*

(d) *Upon discovery of any event which may or does result in contamination or pollution of Federal lands, waters or facilities, the Grantee shall initiate any necessary emergency measures to protect health, safety and the environment and shall report such discovery and full details of the actions taken to Reclamation Reporting may be within a reasonable time period A reasonable time period means within twenty-four (24) hours of the time of discovery if it is an emergency or by the first working day if it is a non-emergency An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment*

(e) *Violation of any of the provisions of this Article, as determined by Reclamation, may constitute grounds for termination of this contract Such violations require immediate corrective action by the Grantee and shall make the Grantee liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation*

(f) *The Grantee agrees to include the provision contained in paragraphs (a) through (e) of this Article in any subcontract or third-party contract it may enter into pursuant to this Use Authorization*

(g) *Reclamation agrees to provide information necessary for the Grantee using reasonable diligence, to comply with the provisions of this Article.*

REMOVAL OF STRUCTURES

Upon the expiration, termination, or revocation of this Use Authorization, if all rental charges and damage claims due Reclamation have been paid, the Grantee shall remove all structures, equipment, or other improvements made by it from the premises at no cost to the United States. Upon failure to remove any such improvements within sixty (60) days of expiration, termination, or revocation, any remaining improvements shall, at the option of the United States, be removed or become the property of the United States The Grantee shall pay all expenses of the United States, or its assigns, related to removal of such improvements

BONDING

Grantee shall provide a bond in the amount of $_____, to be maintained until all construction activities of this project and restoration of the disturbed areas have been completed and accepted in writing by Reclamation Upon completion, or partial completion, of these restoration requirements, Reclamation, may terminate or allow partial reduction of the amount of the bond requirement

RIGHT OF ENTRY

The United States reserves the right of its officers, agents, and employees at all times to have unrestricted access and ingress to, passage over, and egress from all lands covered by this Use Authorization, to make investigations of all kinds, dig test pits and drill test holes, to survey for and construct reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever. Reclamation will make every reasonable effort to keep damages to a minimum

CULTURAL RESOURCES

The Grantee shall immediately provide an oral notification to Reclamation of the discovery of any and all antiquities or other objects of archaeological, cultural, historic, or scientific interest on Reclamation lands The Grantee shall follow up with a written report of their finding(s) to Reclamation's authorized official within forty-eight (48) hours Objects under consideration include, but are not limited to, historic or prehistoric ruins, human remains, funerary objects, and artifacts discovered as a result of activities under this Use Authorization The Grantee shall immediately cease the activity in the area of the discovery, make a reasonable effort to protect such discovery, and wait for written approval from the authorized official before resuming the activity Protective and mitigative measures specified by Reclamation's authorized official shall be the responsibility of the Grantee

PESTICIDES

(a) *The Grantee shall not permit the use of any pesticides on Federal lands without prior written approval by Reclamation The Grantee shall submit to Reclamation for approval an integrated pest management Plan (IPMP) thirty (30) days in advance of pesticide application*

(b) *All pesticides used shall be in accordance with the current registration, label, direction, or other directives regulating their use (State Department of Agriculture, Department of Ecology, OSHA, etc) and with applicable Reclamation policy and directives and standards Applicators must meet applicable State training or licensing requirements Records maintenance shall be in accordance with State requirements Records maintenance shall be in State requirements and such records shall be furnished to Reclamation not later than five (5) working days after any application of a pesticide.*

(c) *Any equipment, tools, and machines used for pesticide application shall be in good repair and suitable for such use Equipment shall be calibrated prior to the spraying season and as deemed necessary by Reclamation*

(d) *Mixing, disposal, and cleaning shall be done where pesticide residues cannot enter storm drains, sewers, or other non-target areas*

(e) *The Grantee shall initiate any necessary measures for containment and clean up of pesticide spills Spills shall be reported to Reclamation with full details of the actions taken Reporting may be within a reasonable time period A reasonable time period means within twenty-four (24) hours if the spill if an emergency or by the next business day following the spill if it is a nonemergency An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment*

(f) *Aerial application of pesticides is prohibited without prior written consent by Reclamation*

(g) *The Grantee agrees to include the provisions contained in paragraphs (a) through (f) of this Article in any subcontract or third party contract it may enter into pursuant to this Use Authorization*