

EXHIBIT "A"

DUPLICATE ORIGINAL

Contract No. 17-07-34-L1896

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
LOWER COLORADO REGION
YUMA AREA OFFICE
YUMA, ARIZONA

GILA PROJECT,
YUMA MESA DIVISION,
MESA UNIT
ARIZONA

1. THIS CONSENT is given this day _____ of _____, 20____, pursuant to provisions of the Reclamation Act of June 17, 1902 (32 Stat. 388); the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended August 18, 1950 (64 Stat. 463); and acts amendatory thereof or supplementary thereto; and the provisions of 43 CFR § 429, between the United States of America, acting through the Bureau of Reclamation, hereinafter referred to as "Reclamation," represented by the officer executing this Consent, hereinafter referred to as the "Area Manager," and the City of Yuma, hereinafter referred to as the "Consentee," with the concurrence of the Yuma Mesa Irrigation and Drainage District, hereinafter referred to as the "District."

WITNESSETH THAT:

2. WHEREAS, in accordance with the Act of August 30, 1890 (26 Stat. 371, 391) (Act); the United States retains statutory reservation of a right-of-way for ditches or canals constructed or to be constructed by the authority of the United States, this reservation being that created with respect to certain public lands prior to their patent by the Act, as it has been or may hereafter be amended; and

3. WHEREAS, the Bureau of Land Management (BLM) authorized a perpetual right-of-way dated August 13, 1957, to Reclamation for "A" and "B" Canals and Laterals, under BLM Serial No. AZAR 016569, a necessary feature of the Gila Project, Yuma Mesa Division; and

4. WHEREAS, by application dated November 23, 2016, the Consentee requested right-of-use authorization to construct, install, own, use, operate and maintain a paved 20-foot wide secondary emergency public access lane, hereinafter referred to as Improvements, within, on, over, and/or across Reclamation's B-1.7 Lateral rights-of-way; and

5. WHEREAS, the District has operation and management responsibility for Reclamation's B-1.7 Lateral, hereinafter referred to as Lateral; and

6. WHEREAS, Reclamation has no objection to such use of the Lateral rights-of-way and the use is, at this time, compatible with the purpose for which the lands were reserved and are being administered by Reclamation.

7. NOW, THEREFORE, Subject to the conditions hereinafter set forth, Reclamation does hereby grant to the Consentee use authorization to construct, install, own, use, operate and maintain said Improvements within, on, over, and/or across the Lateral, as described by Dahl, Robins and Associates, Inc., design plans entitled "Kerley Ranch Unit No. 3." The design plans are hereinafter described as Exhibit A, attached hereto and by this reference made a part hereof. The parties hereto agree to the following terms and conditions:

8. DESCRIPTION OF USE AREA: Within portions of:

Gila and Salt River Meridian, Arizona
Township 9 South, Range 22 West,
NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, section 8

The use area described above shall hereinafter be referred to as the "Premises."

9. ASSIGNMENT:

This Consent is personal, revocable and nontransferable and shall not be construed as granting to the Consentee any right, title or interest in the Premises or any other property, facilities or works of Reclamation.

10. TERM:

This Consent, unless terminated sooner as provided by Article 11 hereof, shall terminate 25 years from the date hereof. This Consent may, upon agreement of the parties, be extended for an additional 25 year period. Any application for extension shall be filed by the Consentee, in writing, with Reclamation. Any application for extension must be filed not less than 180 days prior to termination of this Consent.

11. TERMINATION:

(1) This Consent shall terminate and all rights of the Consentee hereunder shall cease upon the following:

(a) At the expiration of the term as provided by Article 10; or

(b) Upon mutual, written agreement by the parties hereto; or

(c) At any time by Consentee upon 60 days written notice to Reclamation; or

(d) At any time by Reclamation, if Reclamation determines that the Premises or any portion thereof is needed for project purposes of Reclamation, upon 120 days written notice to the Consentee; or

(e) After failure of the Consentee to observe any of the conditions of this Consent, and on the 10th day following service of written notice on the Consentee of termination because of failure to observe such conditions; or

(f) Upon a determination by Reclamation that any activity by the Consentee in or upon the Premises is or was illegal.

(2) This Consent may be revoked upon 30 days written notice to the Consentee, if

(a) The Consentee's use interferes with or endangers the construction, operation, security, or maintenance of the Lateral, or

(b) Reclamation disposes of its interest in said land, or

(c) The Consentee fails to comply with any of the terms and conditions hereof.

12. EXCEPTIONS AND RESERVATIONS:

(a) Reclamation reserves the right of its/their officers, agents and employees to at all times have unrestricted access and ingress to, passage over and egress from all of the Premises 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.

(b) The rights granted hereunder shall not be exclusive in character and Reclamation reserves to itself, its successors and assigns, the right against the Consentee to use any or all of the Premises, which are or may be crossed, or upon which irrigation and drainage facilities and works of Reclamation have been constructed, and to construct, reconstruct, operate and maintain therein and thereon dams, dikes, canals, waste ways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways and appurtenant irrigation and drainage structures which may be needed or useful in connection with or as a part of canals, laterals and other irrigation and drainage facilities without any payment by Reclamation, its successors or assigns for the exercise of such right. The Consentee agrees that if the construction, reconstruction, installation, operation or maintenance of any or all of such works of Reclamation, on or across

the Premises described above, should be made more expensive by reason of the existence of Consentee's Improvements, such additional expense may be estimated by Reclamation whose estimate shall be final and binding upon the parties hereto, and within 30 days after demand is made upon the Consentee for payment of any such sums, the Consentee shall make payment thereof to Reclamation or its successors or assigns constructing such works across, over, under or upon the Premises.

(c) Reclamation reserves the right to inspect Consentee's Improvements under the terms of this Consent both during the progress of installation and upon completion thereof.

(d) Jurisdiction of and supervision by Reclamation over the Premises is not surrendered or subordinated by issuance of this Consent and Reclamation reserves the right to issue additional Consents or other agreements for compatible uses of the Premises.

13. HOLD HARMLESS: The Consentee hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the Consentee's activities under this Consent. Additionally, except for acts of negligence, the Consentee releases the United States and/or Reclamation, its/their officers, employees, successors and assigns from any and all liability for damage arising from injury to persons or damage to structures, equipment, improvements or works of the Consentee resulting from the construction, operation or maintenance of any of the works of the United States and/or Reclamation. Provided, however, that nothing contained in this clause shall be deemed to modify or limit any liability which may be imposed by the Federal Tort Claims Act, 28 U.S.C. § 2671, et seq. (1970).

14. SPECIAL CONDITIONS:

(a) Upon termination of this Consent for any reason, the Consentee may be required, at the option of Reclamation, to remove said Improvements placed in or upon the Premises and shall restore the Premises to a condition satisfactory to Reclamation. If the Consentee fails to remove said Improvements within a timeframe mutually agreed to by Reclamation, the District, and the Consentee, Reclamation may remove said Improvements at the expense of the Consentee, and the Consentee shall promptly pay Reclamation for removal of said Improvements and restoration of the Premises upon receipt of billing.

(b) Any construction outside of the Reclamation rights-of-way is not authorized by Reclamation.

(c) The Consentee shall be solely responsible for, and ensure that, said Improvements within and/or across the Lateral are performed in accordance with Exhibit A, as approved by Reclamation and the District.

(d) Any changes proposed by the Consentee to the approved details of the Improvements, as described in Exhibit A, will require review and approval in advance by Reclamation and the District.

(e) The Consentee must follow Reclamation's requirements for crossings of its facilities which are found in Reclamation's "Engineering and O&M Guidelines for Crossings – Bureau of Reclamation Water Conveyance Facilities (Canals, Pipelines, and Similar Facilities)" as described and depicted by Exhibit B which is attached hereto and by this reference made a part hereof.

(f) The Consentee shall be solely responsible for, and ensure that, coverage between the finished grade of the roadway and Lateral is maintained in accordance with Exhibit A, as approved by Reclamation and the District.

(g) The Consentee shall be solely responsible for, and ensure that, construction, installation, ownership, use, operation and maintenance of said Improvements does not affect the cross section, stability or carrying capacity of the Lateral in any manner. The Lateral must be preserved without impact during and after construction of said Improvements.

(h) The Consentee shall be solely responsible for, and ensure that, the Lateral is protected during installation activities. Consentee will be liable for any costs associated with repairs of Reclamation facilities if damaged during installation activities.

(i) The Consentee shall not make any alteration of said Lateral within the Reclamation rights-of-way, without prior written concurrence of Reclamation.

(j) The Consentee shall be solely responsible for, and ensure that, installation activities do not interfere with Reclamation's or the District's operation and maintenance activities of the Lateral.

(k) The Consentee will protect all properties owned and/or previously permitted by Reclamation within its reserved rights-of-way for the Lateral.

(l) The Consentee shall notify the District's Manager, Mr. Pat Morgan, at telephone No. 928-726-4353 before any installation activities are performed within the Lateral rights-of-way.

(m) The Consentee shall provide a construction schedule and 72 hour notice to Reclamation prior to the start of construction and installation activities. Said 72 hour notice shall be provided to Reclamation's Technical Support Office, Construction Services Group Manager,

at telephone No. 928-343-8100 so that a Reclamation Inspector can be on-site during construction and installation activities.

(n) The Consentee shall at all times keep the Premises, including construction areas used by the Consentee, free from accumulations of waste materials or rubbish. All trash and debris will be removed upon leaving the construction area each day it is used by Consentee. The Lateral and surrounding area will be maintained in a sanitary condition at all times, and the Consentee shall ensure no materials or debris is discharged into the Lateral.

(o) During construction, installation, use and maintenance activities upon the Premises, the Consentee shall carry out proper and efficient measures wherever and as often as necessary to reduce nuisance by dust, and to prevent dust which has originated from its operations from damaging any other properties or causing a nuisance to persons.

(p) The Consentee will restore and repair, if necessary, the Lateral and surrounding area to its original condition or improved, and in a manner satisfactory to Reclamation and the District.

(q) Within 90 calendar days of the completion of installation, Consentee shall furnish Reclamation with as-built drawings depicting the location and elevation of said Improvements, as installed. Said drawings shall be provided to Reclamation in AutoCAD Civil 3D 2013 format, or compatible, one (1) 11x17 size drawing, and one (1) electronic copy (CD) of the drawing.

(r) This authorization to use the Lateral rights-of-way will not be construed as a grant of any permanent right-of-way interest or as abandonment by the United States of any rights, including but not limited to, use and occupancy of the Lateral.

(s) The Consentee acknowledges and agrees that Reclamation and/or the District may close the Improvements for maintenance activities with reasonable advance notice to the Consentee, as determined by Reclamation and/or the District.

(t) Any damage to the Improvements caused by Reclamation and/or the District's operation and maintenance activities for the Lateral shall be the sole responsibility of the Consentee to repair and/or replace, and Reclamation shall not be financially responsible for any such repairs and/or replacements.

(u) The Consentee shall reimburse Reclamation for any additional costs incurred in the operation and maintenance of the Lateral which are attributable to the Improvements.

(v) The Consentee, at its sole expense, shall install, use and maintain said Improvements in conformity with all applicable regulations of Federal, State and local regulatory agencies, including but not limited to, those relating to pollution and environmental control.

(w) All installation activities undertaken pursuant to this Consent shall be in conformity with the specifications approved in advance by Reclamation and the District and shall be conducted by the Consentee at all times in a manner satisfactory to Reclamation and the District.

(x) The Consentee shall reimburse Reclamation for any and all costs and expenses incurred in the defense of any action which challenges Consentee's use of the Premises.

(y) The Consentee shall not use the Premises or permit the use thereof for any purpose except as set forth herein.

(z) Reclamation will accept no responsibility for the structural adequacy of the Improvements. Approval is based on the construction and installation of the Improvements only.

(aa) The rights granted by this Consent are subject to any and all rights of Reclamation, and to existing rights in favor of the public or third parties. The Consentee agrees that it is its sole responsibility to make whatever arrangements as are necessary to obtain such rights as may be required of the Consentee from any other party or parties holding any other interests.

(bb) This Consent shall not be construed as to limit, relinquish, abridge, or impair enjoyment of the existing easement rights held by Reclamation for the Lateral.

(cc) In the event the Consentee is not the underlying fee owner of the land encumbered by Reclamation's rights-of-way, it shall be incumbent on the Consentee to secure permission of the fee owner(s) for approval to enter upon, cross, or use the land, including the Reclamation rights-of-way.

(dd) Construction, operation, and maintenance of the Improvements shall conform to normal accepted engineering standards and to all applicable Federal, State, and local laws, rules, regulations, codes, and in such a manner as to not interfere with any rights and privileges of the United States, including ingress and egress. The Consentee accepts full responsibility for any damage to the Lateral and/or any loss of use of said Lateral as a direct or indirect result of the Consentee's use under this Consent.

(ee) All on-site personnel will be personally instructed by Consentee regarding the above-listed conditions.

(ff) The provisions of this Consent shall apply to and bind the successors and assigns of Reclamation and the Consentee.

15. HAZARDOUS MATERIALS:

(a) The Consentee may not allow contamination or pollution of lands, waters, or project works of Reclamation for which the Consentee 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.

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

(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 lands, waters or project works of Reclamation, the Consentee shall initiate emergency measures to protect health and safety and the environment if necessary and shall provide notice of such discovery with full details of the actions to Reclamation's Environmental Planning and Compliance Group Manager at telephone No. 928-343-8100. Additionally, all spills regardless of size shall be reported to Reclamation's Environmental Planning and Compliance Group Manager. Such notice shall be within a reasonable time period but not to exceed 24-hours from the time of discovery if it is an emergency, and 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, upon which the Consentee does not take immediate corrective action, may, as determined by Reclamation, constitute grounds for termination of this Consent and shall make the Consentee liable for the cost of the full and complete remediation and/or restoration of any resources of facilities of Reclamation that are adversely affected as a result of the violation.

(f) The Consentee agrees to include the provisions contained in paragraphs (a) through (e) of this Article in any subcontract or third party contract it may enter into pursuant to this Consent.

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

16. PESTICIDES:

(a) The Consentee shall not permit the use of any pesticides on Federal lands without prior written approval by Reclamation. The Consentee shall submit to Reclamation for approval an Integrated Pest Management Plan (IPMP) 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 will meet applicable State training or licensing requirements. Records maintenance shall be in accordance with State requirements. Records maintenance shall be in accordance with State requirements and such records shall be furnished to Reclamation not later than five 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 Consentee shall initiate any necessary measures for containment and cleanup of pesticide spills. Spills shall be reported to the Contracting Officer with full details of the actions taken. Reporting may be within a reasonable time period. A reasonable time period means within 24-hours of the spill 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.

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

(g) The Consentee 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 Consent.

17. NOTICES:

(a) Any notices required by this Article shall be served by certified mail addressed to the respective addresses given herein and the mailing of any such notice properly enclosed, addressed, stamped and certified, shall be considered service.

(b) Any notice, demand or request required or authorized by this Consent to be given or made to or upon Reclamation shall be deemed properly given or made if delivered or mailed postage-prepaid, to the Area Manager, Yuma Area Office, Bureau of Reclamation, 7301 Calle Agua Salada, Yuma, Arizona 85364.

(c) Any notice, demand or request required or authorized by this Consent to be given or made to or upon the District shall be deemed properly given or made if delivered or mailed postage-prepaid, to the Manager, Yuma Mesa Irrigation and Drainage District, 14329 South Fourth Avenue Extension, Yuma, Arizona 85365.

(d) Any notice, demand or request required or authorized by this Consent to be given or made to or upon the Consentee shall be deemed properly given or made if delivered or mailed postage-prepaid, to the City of Yuma, One City Plaza, Yuma, Arizona 85364.

(e) The designation of the person to or upon whom any notice, demand or request is to be given or made, or the address of such person may be changed at any time by notice given in the same manner as provided in this Article for other notices.

18. OFFICIALS NOT TO BENEFIT: No Member of or Delegate to Congress or Resident Commissioner, and no officer, agent or employee of the Department of the Interior, shall be admitted to any share or part of this Consent or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this Consent if made with a corporation or contractor for its general benefit.

19. SUCCESSORS AND ASSIGNABILITY: This License is personal, revocable and nontransferable and shall not be construed as granting to the Licensee any right, title or interest in the Premises or any other property, facilities or works of Reclamation. This License shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no assignment or transfer of any of the rights of the Licensee hereunder shall be made without the prior written consent of Reclamation.

20. SEVERABILITY: Each provision of this use authorization shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this use authorization shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such

412 provision shall be ineffective and void only to the extent of such invalidity or prohibition, but
413 shall not be deemed ineffective or invalid as to the remainder of such provision or any other
414 remaining provisions, or of the use authorization as a whole.

IN WITNESS WHEREOF, this Consent is given as of the date and year first-above written.

THE UNITED STATES OF AMERICA

By: _____
 Christopher M. Wallis, Chief
 Resource Management Office
 Yuma Area Office
 Lower Colorado Region
 Bureau of Reclamation

Date: _____

ACCEPTANCE:

CITY OF YUMA

By: _____

Title: _____

Date: _____

CONCURRENCE:

YUMA MESA IRRIGATION AND
 DRAINAGE DISTRICT

By: _____

Title: _____

Date: _____

NOTARIAL ACKNOWLEDGMENT

State of Arizona)

County of Yuma)

On this __ day of _____, 20__, before me, _____, a Notary Public in and for said
County and State personally appeared _____, _____ of
Name Title

City of Yuma, known to me to be the person described in the foregoing instrument, and
acknowledged to me that _____ executed the same on behalf of City of Yuma in the capacity
therein stated and for the purpose therein contained.

(Notary Seal)

Notary Public

Description of document this notarial certificate is being attached to:	
Type/Title	Consent Agreement, Contract No. 17-07-34-L1896
Date of Document	
Number of Pages	14 Pages and Exhibits A and B
Additional Signers (other than those named in the notarial certificate)	Bureau of Reclamation Yuma Mesa Irrigation and Drainage District

NOTARIAL ACKNOWLEDGMENT

State of Arizona)

County of Yuma)

On this ____ day of _____, 20____, before me, _____, a Notary Public in and for said
County and State personally appeared _____, _____ of
Name Title

Yuma Mesa Irrigation and Drainage District (District), known to me to be the person described
in the foregoing instrument, and acknowledged to me that _____ executed the same on behalf of
the District in the capacity therein stated and for the purpose therein contained.

(Notary Seal)

Notary Public

Description of document this notarial certificate is being attached to:	
Type/Title	Consent Agreement, Contract No. 17-07-34-L1896
Date of Document	
Number of Pages	14 Pages and Exhibits A and B
Additional Signers (other than those named in the notarial certificate)	Bureau of Reclamation City of Yuma