

Exhibit B

LICENSE NO. 001-18-001

YUMA COUNTY WATER USERS' ASSOCIATION  
P. O. BOX 5775  
YUMA, AZ 85366-5775

LICENSE FOR ENCROACHMENT AND CONSTRUCTION, INSTALLATION,  
OPERATION AND MAINTENANCE OF FACILITIES

LICENSEE: CITY OF YUMA

LOCATION: USBR JORDAN LATERAL RIGHTS-OF-WAY IN SECTION 5,  
TOWNSHIP 9 SOUTH, RANGE 23 WEST, GILA & SALT RIVER BASE &  
MERIDIAN, YUMA COUNTY, ARIZONA.

1. Authority.

(a) Pursuant to the provisions of United States Department of the Interior, Bureau of Reclamation (the Bureau), Public Notice No. 77 dated February 12, 1960 (the Public Notice), the Yuma County Water Users' Association (Licensor) licenses the above named Licensee to construct, install, operate and maintain facilities encroaching upon rights-of-way of the United States forming part of the Valley Division of the Yuma Project, a reclamation project constructed under the laws of the United States (the Project), but only in strict compliance with the terms of this license.

(b) The Licensor is not authorized to grant or otherwise dispose of any right, title or interest in any land or interest in land owned by the United States, and this license does not constitute a grant or other disposition of any land or interest in land owned by the United States. Requests involving the granting or other disposition of any right, title or interest in any land or interest in land owned by the United States must be submitted to the Bureau as provided in the Public Notice.

(c) The Encroachment authorized by this license is subject to termination as provided in the Public Notice and in this license.

(d) This license is issued with the understanding that the issuance does not involve a substantial adverse change in any of the Project works transferred to the Licensor under the provisions of the Contract for the Care, Operation and Maintenance of Works of the Valley Division, Yuma Project, No. 176r-671, dated June 15, 1951, between the United States of America and the Licensor.

(e) Upon discovery of archaeological or historical cultural resources in the course of constructing the Encroachment, the Licensee shall cease all activity in the area of the discovery and provide immediate telephone notifications of the discovery to the Licensor by directly contacting the Licensor's Manager at 928-627-8824 and the Bureau Archeologist at 928-343-8567, and also make all reasonable efforts to protect the cultural resources discovered. Activity under the license may resume only after the Bureau has authorized it to continue.

2. Description of Encroachment and Applicable Conditions The encroachment proposed by Licensee (the Encroachment) is described as follows:

- (i) **CONSTRUCTION, OPERATION AND MAINTENANCE OF A NEW WATER LINE CONNECTION TO AN EXISTING WATER LINE APPROXIMATELY 360' SOUTH OF THE INTERSECTION OF 21ST DRIVE AND 28TH STREET.**
- (ii) **CONSTRUCTION, OPERATION AND MAINTENANCE OF A NEW SANITARY SEWER LINE CONNECTION TO AN EXISTING SANITARY SEWER LINE APPROXIMATELY 325' SOUTH OF THE INTERSECTION OF 21ST DRIVE AND 28TH STREET.**
- (iii) **CONSTRUCTION, OPERATION AND MAINTENANCE OF A NEW RETENTION BASIN AND APPURTENANCES WITHIN AND PARALLELING THE JORDAN LATERAL IN THE SOUTHWEST CORNER OF THE INTERSECTION OF 21ST DRIVE AND 28TH STREET.**
- (iv) **CONSTRUCTION, OPERATION AND MAINTENANCE OF NEW LANDSCAPING AND APPURTENANCES WITHIN AND PARALLELING THE JORDAN LATERAL IN THE SOUTHWEST CORNER OF THE INTERSECTION OF 21ST DRIVE AND 28TH STREET.**
- (v) **A VARIANCE TO THE LICENSOR'S NO PARALLEL ENCROACHMENT WITHIN LICENSOR'S RIGHTS-OF-WAY IS HEREBY GRANTED, AS THE JORDAN LATERAL FACILITIES ARE ABANDONED SOUTH OF 28TH STREET.**

**THIS VARIANCE IS BY NO MEANS A PRECEDENT FOR ANY FUTURE ENCROACHMENTS AND THIS VARIANCE APPLIES ONLY TO THIS ENCROACHMENT.**

- (vi) **SECTION 3. (a) EXHIBIT "A" IS DEFINED AS FOLLOWS:**

**PLANS TITLED "TUSCANY MEDICAL & PROFESSIONAL PLAZA (PHASE 2), PREPARED BY EDAIS ENGINEERING, INC.,**

**SIGNED AND STAMPED BY NAJEH K. EDAIS ON 01/04/18,  
APPROVED BY THE CITY OF YUMA ENGINEERING  
DEPARTMENT BY CRUZA ON 01/08/2018.**

**PLANS TITLED "TUSCANY MEDICAL & PROFESSIONAL  
PLAZA (PHASE 2), ELABORATED BY: VEGA & VEGA  
ENGINEERING, P.L.C., SIGNED AND STAMPED BY JOHN C.  
ENGLISH II ON 10/19/17, APPROVED BY CITY OF YUMA  
ENGINEER ANDREW MCGARVIE ON 11/6/17.**

3. Plans, Specifications; Construction and Inspection.

(a) All structures constructed under this license shall be erected in accordance with plans and specifications approved in writing in advance by Licensor. The approved plans and specifications for the Encroachment contemplated by this license are attached as Exhibit "A" and are incorporated by reference into the terms of this license (the Approved Plans). Any proposed deviation in construction or operations from the Approved Plans must be approved by Licensor in advance in writing before construction or operation of the Encroachment.

(b) All construction shall be completed in a manner so as not to obstruct in any way the flow of water in any canals, laterals, or drain ditches of the Project, or to interfere in any way with the construction, operation and maintenance of any part of the Project by the Licensor or the Bureau.

(c) Within Sixty ( 60 ) calendar days after completion of the Encroachment, Licensee shall submit two (2) copies of as-built drawings to the Licensor. The Licensor shall provide one (1) copy of the as-built drawings, with a cover letter of transmittal, to the Bureau and provide a copy to any other party or entity associated with the Encroachment as determined by the Licensor. As-built drawings are required even in cases where Licensee claims that there have been no changes from the Approved Plans.

(d) Upon receipt of the as-built drawings, the Licensor shall conduct an inspection of the Encroachment to verify that the Encroachment conforms to the as-built drawings and that the as-built drawings conform to the Approved Plans. If the Licensor determines that the Encroachment, as built, does not comply with the Approved Plans, the Licensee shall, at Licensee's expense, immediately make such changes to the Encroachment as are necessary to make the Encroachment conform to the Approved Plans.

(e) Licensee shall provide Licensor with two (2) working days advance notification before the commencement of construction of Encroachment and any preconstruction activity connected with the construction of the Encroachment.

(f) If Licensee does not commence work on the construction of the Encroachment within one (1) year from the date this license is issued, the license shall automatically expire unless extended by the Licensor in writing.

4. Administrative and Inspection Fees.

(a) Licensee shall pay the Licenser, upon submission of its application for the Encroachment, an all inclusive, non-refundable administrative fee of Two Hundred Fifty and No/100 Dollars (\$250.00) per encroachment per location.

(b) In addition to the fees required by paragraph 4(a), the Licensee shall reimburse the Licenser all reasonable and appropriate costs incurred by the Licenser in inspecting the Encroachment during and after construction and all costs incurred by the Licenser in causing any changes to the Encroachment necessary to bring the final construction of the Encroachment into accord with the Approved Plans. Licenser's inspection costs will be billed at Licenser's actual costs within forty-five (45) days of completion of the inspection and are due and payable within thirty (30) days after receipt by Licensee of a billing from Licenser.

5. Termination.

(a) As provided in the Public Notice, this license is subject to termination by the Licenser or the Bureau on thirty (30) days notice. Licenser agrees, however, that, except in the case of emergencies, or in cases where Licenser is requested or directed by the Bureau for an earlier termination of the license, or in cases where the Licensee is in default under any term or provision of this license, Licenser will not terminate this license on less than six (6) months prior written notice to the Licensee.

(b) If the Licensee is subject to the provisions of ARS 38-511, the provision of ARS 38-511 shall apply to this license.

(c) On termination of the license, the Licensee shall remove the Encroachment within one hundred eighty (180) days after the date of notice of termination and shall return the rights-of-way affected by this license to their original condition, or a condition acceptable to the Licenser and the Bureau, at Licensee's sole expense and at no expense to the Licenser or the Bureau. If Licensee fails to make reasonable and diligent efforts to remove the Encroachment and it is reasonable to expect Licensee to remove the Encroachment within the 180 days, Licenser may, without liability to Licensee and without further notice to Licensee, remove the Encroachment and charge the Licensee for the reasonable and appropriate cost of removing the Encroachment and restoring the rights-of-way to their original condition. Payment to the Licenser is due within thirty (30) days after receipt of a statement of the costs incurred by Licenser in the removal of the Encroachment and restoration of the rights-of-way.

6. Increased Operation and Maintenance Expenses. If the construction and placement of the Encroachment increases the cost to Licenser, or its successors, of operation and maintenance functions on the rights-of-way that are affected by the Encroachment, the amount of any increase shall be paid by the Licensee. The amount of any increased operation and maintenance expense charged to the Licensee under

this paragraph shall be determined by the Licensor in the Licensor's reasonable discretion. Any dispute between Licensor and Licensee as to the appropriateness or amount of any claimed increase in operation and maintenance charges claimed by the Licensor shall be resolved by the Area Manager. The determination of the Area Manager shall be conclusive and binding upon both parties and shall not be subject to review by any other person, entity or court.

7. Maintenance of Encroachment; Repairs to Damage.

(a) Maintenance of the Encroachment is the complete responsibility of the Licensee. If Licensee fails to perform proper maintenance of the Encroachment within fifteen (15) days after receipt of notice from the Licensor, either orally or in writing, of necessary maintenance to the Encroachment, the Licensor may, but is not obligated to, perform the necessary maintenance and bill Licensee for its costs incurred. Payment to the Licensor is due within thirty (30) days after receipt of statement of the costs incurred by Licensor in performing the necessary maintenance.

(b) If the Encroachment is damaged by the Licensor in the course of performing maintenance and operations on any right-of-way in the Project, the cost of repairing the Encroachment shall be paid by the Licensee.

8. Hold Harmless and Indemnification.

(a) To the maximum extent permitted by law, the Licensee agrees to hold forever harmless, indemnify and defend the Licensor and the Bureau, together with all of their respective officers, employees, successors and assigns from and against any and all claims related to or in any way connected with the construction, operation or maintenance of the Encroachment. The Licensee's obligation includes, but is not limited to, the obligation to pay Licensor and the Bureau's attorney fees and costs incurred in connection with any claim whether or not litigation is commenced.

(b) If the Licensee contracts with or employs independent contractors to perform any of the construction of the Encroachment or otherwise provide services to the Licensee in connection with this license, the Licensee agrees to indemnify, defend and hold the Licensor and the Bureau forever harmless against any and all claims or demands of any nature whatsoever arising out of or in any way connected with the independent contractors retained by Licensee.

9. Covenant Against Contingent Fees. The Licensee warrants that no person or agency has been employed or retained to solicit or secure this license upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the Licensee for the purpose of securing business.

10. Assignment and Sublicenses.

(a) The Licensee may not, without the prior written consent of Licensor and the Bureau, assign, sublease or otherwise transfer any interest under this license to any other person or entity. The Licensee may not authorize or permit others to utilize

any facility or structure or rights-of-way area which are the subject matter of this license except as expressly authorized by this license or by the Licensors and the Bureau in writing.

(b) If any assignment or sublicense is approved by the Licensors and the Bureau, all of the terms and conditions of this license shall be binding upon the successors and assigns of the Licensee to the full extent those terms and conditions were binding on the Licensee prior to the assignment or sublicense.

(c) If land on which an Encroachment is located is annexed by the City of Yuma and the City of Yuma desires to retain the Encroachment, the City and the Licensors shall execute a new license for encroachment agreement in the Licensors' standard form requiring the City to be responsible for the Encroachment under the terms of the new license agreement. If a new encroachment license agreement is not executed between the City and the Licensors, the Licensors or the Bureau may immediately terminate this license and require the immediate removal of the Encroachment at Licensee's expense.

11. Disputes, Jurisdiction, Venue and Attorney Fees.

(a) Any action between Licensors and Licensee to interpret or enforce any term of this license shall be commenced and concluded in the Superior Court of the State of Arizona, in Yuma County, Arizona, and not elsewhere. Licensee submits itself to the personal jurisdiction of the Superior Court and waives any objection to venue in Yuma County, Arizona.

(b) In any action to enforce or interpret this license, the prevailing party shall be entitled to recover that party's reasonable attorney fees and costs in an amount fixed by the Court or arbitrator, as the case may be.

IN WITNESS WHEREOF, the parties have signed this License for Encroachment on the dates shown below to be effective as of \_\_\_\_\_.

Licensee: **CITY OF YUMA**

Approved: **YUMA COUNTY WATER  
USERS' ASSOCIATION**

s/ \_\_\_\_\_

s/ \_\_\_\_\_

By: Gregory K. Wilkinson

Name: Tom W. Davis

Title: City Administrator

Title: Manager

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

One City Plaza  
Yuma, AZ 85364

(Address)  
928-373-5011

(Phone Number)

Attested:

\_\_\_\_\_  
By: Lynda L. Bushong  
Title: City Clerk

Dated: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Richard W. Files  
City Attorney

Dated: \_\_\_\_\_

cc: United States Bureau of Reclamation  
Area Manager, Yuma Area Office  
7301 Calle Agua Salada  
Yuma, AZ 85364