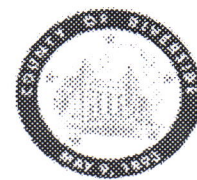


FORM APPROVED COUNTY COUNSEL  
 BY: JINNY R. YANG 7/20/10  
 DATE

664



**SUBMITTAL TO THE BOARD OF SUPERVISORS  
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**FROM:** Community Health Agency/Department of Environmental Health

**SUBMITTAL DATE:**  
 July 15, 2010

**SUBJECT:** Memorandum of Understanding for Septic System Mitigation between the City of Perris, County of Riverside, and the Eastern Municipal Water District for the Community of Enchanted Heights

**RECOMMENDED MOTION:** That the Board of Supervisors:

Approve the Memorandum of Understanding (MOU) for Septic System Mitigation between the City of Perris, County of Riverside, and the Eastern Municipal Water District for the Community of Enchanted Heights

Departmental Concurrence

**BACKGROUND:** The community of Enchanted Heights was developed in the 1960s with individual septic systems and currently experiences an unacceptable number of failures due to the age of the systems, small lot sizes, and groundwater and soil conditions. This community exists both within the City of Perris and the unincorporated area of the County. In 2005, the Riverside County Board of Supervisors passed Resolution 2005-300 that established a prohibition for new septic systems in the community. This Resolution was the first step in securing funding for a community sewer system. Various attempts by Eastern Municipal Water District to secure funding for the whole project have not been successful. It has been recommended that the City of Perris apply for the grant funds for the entire project within the City and County areas. This MOU would delineate the responsibilities of the affected agencies and meet the requirements for the grant application.

*Steve Van Stockum*

SVS:JW

Steve Van Stockum, Director

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	N/A	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	09/10

<b>SOURCE OF FUNDS:</b> Contract revenue and department budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

BY: *Debra Cournoyer*  
 Debra Cournoyer

County Executive Office Signature

Dept Recomm.:  Consent  Policy  
 Per Exec. Ofc.:  Consent  Policy

MEMORANDUM OF UNDERSTANDING FOR SEPTIC SYSTEM MITIGATION  
BETWEEN THE COUNTY OF RIVERSIDE, EASTERN MUNICIPAL WATER DISTRICT,  
AND THE CITY OF PERRIS FOR THE COMMUNITY OF ENCHANTED HEIGHTS

This Memorandum of Understanding ("MOU") is made and entered into this \_\_\_ day of July, 2010, between and among **THE COUNTY OF RIVERSIDE**, a political subdivision of the State of California ("County"), **EASTERN MUNICIPAL WATER DISTRICT**, a public agency (hereinafter "Eastern"); and **THE CITY OF PERRIS**, a municipal corporation (hereinafter "City"). County, City and Eastern are hereinafter sometimes referred to individually as a Party and collectively as the "Parties."

RECITALS

WHEREAS, the Enchanted Heights subdivision is a residential community originally built in the 1960s. The community is located partially in the boundaries of the County and partially in the boundaries of the City, along the western boundary of the City, as shown and depicted as the "Project Site" on the map attached hereto as Exhibit "A"; and

WHEREAS, the Project Site is comprised of 562 lots on approximately 170 acres. Each lot varies in size from 6,000 square feet to one-half acre. Of these lots, 446 residences rely on individual septic systems that often fail during the wet seasons posing a documented health concern with the potential to come into contact with perched groundwater; and

WHEREAS, in light of the severity of the situation and the urgent need to design and construct sewer system facilities to replace the failing septic tank systems, Eastern, the County Redevelopment Agency and the Perris Redevelopment Agency entered into a Joint Contribution Agreement in October of 2009, for the design of a sewer system to replace the existing septic tank systems (the "Enchanted Heights Sewer System Project," or "Project"), with Eastern being the lead agency; and

WHEREAS, the construction plans and specifications for the Project have been completed by Eastern and approved by the City, County and the California Department of Public Health ("Plans"); and

WHEREAS, to fund the construction of the Project, City has submitted an application to the State of California for a grant in the amount of Nine Million Seven Hundred Forty Four Thousand Eight Hundred Thirty Dollars (\$9,744,830) under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 ("Proposition 84 Program"); and

WHEREAS, the State of California is anticipated to issue a Funding Agreement to City committing \$9,744,830 in grant funds under the Proposition 84 Program for the Project (currently designated as Project No. 3310009-801), subject to certain terms and conditions, including the approval of an agreement between City, County, and Eastern outlining their respective roles and responsibilities.



NOW, THEREFORE, in consideration of the above recited premises, which are incorporated herein by reference, together with the mutual covenants herein contained and attached hereto, it is agreed that:

## AGREEMENT

1. CITY RESPONSIBILITIES. City shall be the lead agency for the construction of the Project in accordance with the Plans and shall have primary responsibility for inspection and construction of the Project. City shall be the grant recipient and administrator for the Proposition 84 Program grant. City shall also be responsible for choosing and paying (with grant funds) for a contractor to complete the demolition, abandonment, and connection work contemplated under the Project. It is anticipated that City will own and operate the gravity collection lines upon completion of the Project. City shall ensure that all of the Parties are named as additional insureds under any policy of insurance related to construction of the Project.

2. COUNTY RESPONSIBILITIES. County, through its Environmental Health Department, shall be the lead agency responsible for the inspection of the demolition and abandonment of the existing septic systems for compliance with applicable codes. County shall also be responsible for verifying the connection of the residences to the Project.

3. EASTERN'S RESPONSIBILITIES. Eastern shall have secondary responsibility for inspection of the lift station and the force main during construction of the Project. Eastern will be responsible for acquiring the property necessary for the lift station. It is anticipated that Eastern will own and operate the lift station and force main upon completion of the Project, and be responsible for customer billing.

4. ALL PARTIES' RESPONSIBILITIES. All Parties agree to enter into additional agreements and execute documents reasonably necessary to carry out the intent of this MOU. Each Party agrees to issue encroachment or similar permits promptly to allow the other Parties to fulfill their responsibilities under this MOU. Each Party agrees that its fees for inspecting its portion of the Project shall be reimbursed out of grant proceeds, subject to the availability of grant proceeds after funding construction of the Project. If the cost of construction of the Project exceeds the grant proceeds, the Parties agree to waive inspection and other service fees. The Parties agree to collaborate on an outreach program to encourage the affected residents to connect to the Project. The Parties agree that, prior to awarding a contract for construction of the Project, the Parties will analyze the total cost of the Project including hard and soft costs, and if the estimated cost of the Project exceeds the amount of the Proposition 84 Program grant (projected to be \$9,744,830), the Parties will determine whether to proceed with the Project and share the additional cost. The Parties agree that Eastern shall receive credit for \$142,000 in costs which are not reimbursable under the grant against its portion of any such additional costs. Prior to proceeding with such agreement, the Parties shall obtain written consent, as approved and authorized by their respective governing bodies.

5. NOTICES. Any written communication required or permitted to be given hereunder will be deemed received upon personal delivery or 48 hours after deposit in any United States mail depository, first class postage prepaid, and addressed to the party for whom intended, as follows:

If to Eastern: Eastern Municipal Water District  
P.O. Box 8300  
Perris, CA 92572-8300  
Attn: General Manager

If to City: City of Perris  
101 North "D" Street  
Perris, CA 92370  
Attn: City Manager

If to County: County of Riverside  
Department of Environmental Health  
P.O. Box 7600  
Riverside, CA 92503  
Attn: John Watkins, Deputy Director

6. GENERAL. This MOU contains the entire agreement between the Parties with respect to the matters herein provided for and may only be amended by a subsequent written amendment executed by all parties. This MOU may be executed in counterparts, each of which shall be deemed an original but which together shall constitute a single agreement.

7. INDEMNIFICATION. In contemplation of the provisions of Section 895.2 of the California Government Code imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Section 895 of the Code, the Parties hereto, pursuant to the authorization contained in Section 895.4 and 895.6 of the Code, agree that each Party shall be liable for any damages including, but not limited to, claims, demands, losses, liabilities, costs and expenses including reasonable attorneys fees, resulting from the negligent or wrongful acts or omissions of their employees or agents in the performance of this MOU, and each Party shall indemnify, defend and hold harmless the other Parties from such claims, demands, damages, losses or liabilities for their negligence.

8. INVALIDITY; SEVERABILITY. If any portion of this MOU is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall constitute in full force and effect.

9. SUCCESSORS AND ASSIGNS. This MOU shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

10. SIGNATURE CLAUSE. The signatories hereto represent that they have been appropriately authorized to execute this MOU on behalf of the Party for whom they sign.

[End – Signatures on Following Page]



IN WITNESS WHEREOF, the parties hereto have executed this MOU.

**EASTERN MUNICIPAL WATER DISTRICT**

By: \_\_\_\_\_

Anthony J. Pack, General Manager

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

ATTEST:

By: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

**CITY OF PERRIS**

By: \_\_\_\_\_

Richard Belmudez, City Manager

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_

Eric Dunn, City Attorney

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

**BOARD OF SUPERVISORS OF THE COUNTY  
OF RIVERSIDE, STATE OF CALIFORNIA**

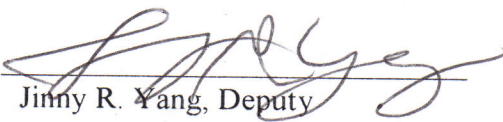
By: \_\_\_\_\_  
Marion Ashley, Chairman

Date: \_\_\_\_\_

ATTEST:  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
Pamela J. Walls, County Counsel

By:   
Jinny R. Yang, Deputy