

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** General Manager-Chief Engineer

**SUBMITTAL DATE:**

January 8, 2013

102B

**SUBJECT:** Arroyo Del Toro Channel, Stage 1  
Project No. 3-0-00170-01  
Cooperative Agreement  
District One/District One

**RECOMMENDED MOTION:**

Approve the Cooperative Agreement between the District and the Elsinore Valley Municipal Water District (EVMWD); and authorize the Chairman to execute the Agreement documents on behalf of the District.

**BACKGROUND:**

The Agreement sets forth the terms and conditions by which certain underground utilities owned by EVMWD will be relocated as a part of the District's proposed Arroyo Del Toro Channel construction project.

Continued on page 2

AMR:bjp

**WARREN D. WILLIAMS**  
General Manager-Chief Engineer

<b>FINANCIAL DATA</b>	Current F.Y. District Cost:	N/A	In Current Year Budget:	Yes
	Current F.Y. County Cost:	N/A	Budget Adjustment:	No
	Annual Net District Cost:	N/A	For Fiscal Year:	N/A

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

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

APPROVE

BY:   
Alex Gann

**County Executive Office Signature**

- Consent
- Policy
- Consent
- Policy

Dept't Recomm.:  
Per Exec. Ofc.:

Prev. Agn. Ref.:

District: 1st/1st

Agenda Number:

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

11-1

FORWARDED TO RIVERSIDE COUNTY COUNSEL  
BY:   
NEAL R. KIPNIS  
DATE: 1/15/13

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**SUBJECT:** Arroyo Del Toro Channel, Stage 1  
Project No. 3-0-00170-01  
Cooperative Agreement  
District One/District One

**SUBMITTAL DATE:** January 8, 2013  
**Page 2**

**BACKGROUND, cont'd:**

The relocation of these EVMWD facilities is necessary in order for the District to proceed with the construction of the Arroyo Del Toro Channel project located within the city of Lake Elsinore.

Upon completion of project construction, EVWMD will retain ownership, operation and maintenance responsibilities of relocated facilities.

County Counsel has approved the Agreement as to legal form and EVMWD has executed the Agreement.

**FINANCIAL**

District cost for the utilities relocation will be incurred via construction contract for the project.

AMR:blj:bjp

**COOPERATIVE AGREEMENT**  
Arroyo Del Toro Channel, Stage 1  
(Project No. 3-0-00170-01)

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", and the ELSINORE VALLEY MUNICIPAL WATER DISTRICT, hereinafter called "EVMWD", hereby agree as follows:

**RECITALS**

A. DISTRICT has budgeted for and plans to construct the Arroyo Del Toro Channel, hereinafter called "CHANNEL". This facility will provide flood protection and drainage within the City of Lake Elsinore near the intersection of Collier Avenue and Riverside Drive, and adjacent to and crossing Highway 74. CHANNEL consists of approximately 3,500 lineal feet of reinforced concrete box and earthen channel; and

B. EVMWD owns, operates and maintains certain water and sewer lines located within public or private rights of way. Certain existing EVMWD facilities, consisting of three (3) waterlines and one (1) sewer line, hereinafter called "EVMWD FACILITIES", interfere with CHANNEL'S vertical alignment, therefore, those interfering portions of EVMWD FACILITIES must be relocated as shown in concept on Exhibit "A", attached hereto and made a part hereof; and

C. DISTRICT has also prepared the necessary plans and specifications to cause the relocation of the interfering portions of EVMWD FACILITIES as part of its proposed CHANNEL construction contract; and

D. Together, CHANNEL and EVMWD FACILITIES are hereinafter called "PROJECT"; and

1 E. DISTRICT desires EVMWD to accept ownership and sole responsibility for  
2 the operation and maintenance of the relocated EVMWD FACILITIES upon completion of  
3 construction; and

4 F. EVMWD is willing to (i) review and approve DISTRICT'S plans and  
5 specifications for the relocation of the interfering portions of EVMWD FACILITIES, (ii)  
6 contribute an amount equal to fifty percent (50%) of the awarded construction bid item price  
7 for the three (3) waterline relocations, hereinafter called "EVMWD'S CONTRIBUTION", (iii)  
8 pay DISTRICT for any EVMWD requested and approved additional work as part of the  
9 relocation of EVMWD FACILITIES as set forth herein, hereinafter called "EVMWD'S  
10 ADDITIONAL CONTRIBUTION", (iv) conduct construction inspection of waterline  
11 relocations at its sole cost, (v) conduct construction inspection of sewer line relocation, and (vi)  
12 accept sole ownership and responsibility for the operation and maintenance of the relocated  
13 EVMWD FACILITIES upon completion of construction, provided DISTRICT (i) reimburses  
14 EVMWD one hundred percent (100%) of its costs for construction inspection of the sewer line  
15 relocation as set forth herein, and (ii) constructs the interfering portions of EVMWD  
16 FACILITIES in accordance with plans and specifications approved by DISTRICT and  
17 EVMWD; and

18 G. EVMWD'S CONTRIBUTION and EVMWD'S ADDITIONAL  
19 CONTRIBUTION are hereinafter together called "EVMWD TOTAL CONTRIBUTION".  
20 EVMWD TOTAL CONTRIBUTION shall not exceed a total sum of one hundred fifty  
21 thousand dollars (\$150,000); and

22 H. DISTRICT desires to proceed with construction of PROJECT within thirty  
23 (30) days after construction contract is awarded; and  
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1 I. EVMWD is willing to pay EVMWD'S CONTRIBUTION to DISTRICT  
2 within thirty (30) days after notice to proceed is issued to DISTRICT'S contractor; and

3 J. The purpose of this Agreement is to memorialize the mutual understandings  
4 by and between DISTRICT and EVMWD with respect to design, construction, inspection,  
5 ownership, operation and maintenance, and funding of PROJECT.

6 NOW, THEREFORE, the parties hereto mutually agree as follows:

7  
8 SECTION I

9 DISTRICT shall:

10 1. Pursuant to the California Environmental Quality Act (CEQA), assume lead  
11 agency role and responsibility for preparation, circulation and adoption of all necessary and  
12 appropriate CEQA documents pertaining to the construction, operation and maintenance of  
13 PROJECT.

14 2. Prepare plans and specifications for relocation of EVMWD FACILITIES,  
15 hereinafter called "RELOCATION PLANS", in accordance with EVMWD standards, and  
16 submit RELOCATION PLANS to EVMWD for its review and approval prior to advertising  
17 PROJECT for construction.

18 3. Pay all costs associated with the preparation of RELOCATION PLANS and  
19 with the processing and administration of this Agreement.

20 4. Obtain at its sole cost and expense, all necessary licenses, permits, right of  
21 way and temporary construction easements as may be needed to construct, inspect, operate and  
22 maintain PROJECT.

23 5. Advertise, award and administer a public works construction contract for  
24 PROJECT.

1           6. Provide EVMWD with written notice that DISTRICT has awarded a  
2 construction contract for PROJECT. The written notice shall include the construction bid item  
3 price for the three (3) waterline relocations.

4           7. Endeavor to proceed with construction of PROJECT within thirty (30) days  
5 after construction contract is awarded.

6           8. Notify EVMWD in writing at least twenty (20) days prior to the start of  
7 construction of PROJECT.  
8

9           9. Furnish EVMWD, at the time of providing written notice to EVMWD of the  
10 start of construction as set forth in Section I.8., a construction schedule which shall show the  
11 order and dates in which DISTRICT or DISTRICT'S contractor proposes to carry out the  
12 relocation of EVMWD FACILITIES, including estimated start and completion dates.

13           10. At the time of providing written notice to EVMWD of the start of  
14 construction as set forth in Section I.8., submit an invoice to EVMWD for fifty percent (50%)  
15 of the awarded construction bid item price for the three (3) waterline relocations as set forth in  
16 Section I.6, hereinafter called "DISTRICT'S INVOICE", for EVMWD'S CONTRIBUTION.  
17

18           11. Construct or cause to be constructed PROJECT, including relocation of  
19 EVMWD FACILITIES in accordance with EVMWD and DISTRICT approved  
20 RELOCATION PLANS, pursuant to a DISTRICT administered public works construction  
21 contract and pay all costs associated therewith subject to those reimbursements as set forth  
22 herein.  
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24           12. Inspect construction of PROJECT.

25           13. Furnish, or cause its construction manager to furnish all construction survey  
26 and materials testing services necessary to construct PROJECT.  
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1           14. Not permit any change to or modification of EVMWD approved  
2 RELOCATION PLANS relative to the relocation of EVMWD FACILITIES without the prior  
3 written permission and consent of EVMWD.

4           15. Require its construction contractor(s) to comply with all Cal/OSHA safety  
5 regulations including regulations concerning confined space and maintain a safe working  
6 environment for all DISTRICT and EVMWD employees on the site.

7           16. Require its prime construction contractor to furnish DISTRICT, following  
8 DISTRICT'S award of a PROJECT construction contract, a confined space entry procedure  
9 specific to PROJECT. The procedure shall comply with requirements contained in California  
10 Code of Regulations, Title 8, Section 5158, Other Confined Space Operations, Section 5157,  
11 Permit Required Confined Space and District confined Space Procedures, SOM-18. The  
12 procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to  
13 Proceed.

14           17. Require its prime construction contractor(s), following DISTRICT'S award  
15 of a PROJECT construction contract, to include EVMWD as an additional insured under the  
16 liability insurance coverage required by DISTRICT'S construction contract for PROJECT.

17           18. Within two (2) weeks of completing the relocation of EVMWD  
18 FACILITIES, provide EVMWD with written notice that relocation construction is substantially  
19 complete and request that EVMWD conduct a final inspection of EVMWD FACILITIES.

20           19. Upon DISTRICT'S acceptance of PROJECT construction as complete,  
21 provide EVMWD with a reproducible copy of the "record drawings" for the relocated  
22 EVMWD FACILITIES.

23           20. Invoice EVMWD.  
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1           3. Except as otherwise provided herein, all construction work involved with  
2 PROJECT shall be inspected by DISTRICT and shall not be deemed complete until approved  
3 and accepted as complete by DISTRICT.

4           4. DISTRICT shall indemnify, defend, save and hold harmless EVMWD  
5 (including its officers, employees, agents, representatives, independent contractors, and  
6 subcontractors) from any liabilities, claim, damage, proceeding or action, present or future,  
7 based upon, arising out of or in any way relating to DISTRICT (including its officers, Board of  
8 Supervisors, elected and appointed officials, employees, agents, representatives, independent  
9 contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement,  
10 performance under this Agreement, or failure to comply with the requirements of this  
11 Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)  
12 payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.  
13

14           5. EVMWD shall indemnify, defend, save and hold harmless DISTRICT and  
15 County of Riverside (including their respective officers, districts, special districts and  
16 departments, their respective directors, officers, Board of Supervisors, elected and appointed  
17 officials, employees, agents, representatives, independent contractors, and subcontractors) from  
18 any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out  
19 of or in any way relating to EVMWD (including its officers, employees, agents,  
20 representatives, independent contractors, and subcontractors) actual or alleged acts or  
21 omissions related to this Agreement, performance under this Agreement, or failure to comply  
22 with the requirements of this Agreement, including but not limited to: (a) property damage; (b)  
23 bodily injury or death; (c) payment of attorney's fees; or (d) any other element of any kind or  
24 nature whatsoever.  
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1           6    EVMWD shall, at all times, retain sole ownership and exclusive  
2 responsibility for operation of the EVMWD FACILITIES.

3           7.   Any waiver by DISTRICT or by EVMWD of any breach of any one or more  
4 of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other  
5 breach of the same or of any other term hereof. Failure on the part of DISTRICT or EVMWD  
6 to require exact, full and complete compliance with any terms of this Agreement shall not be  
7 construed as in any manner changing the terms hereof, or estopping DISTRICT or EVMWD  
8 from enforcement hereof.  
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10           8.   This Agreement is to be construed in accordance with the laws of the State  
11 of California.

12           9.   Any and all notices sent or required to be sent to the parties to this  
13 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:  
14

15 RIVERSIDE COUNTY FLOOD CONTROL           EL SINORE VALLEY  
16 AND WATER CONSERVATION DISTRICT       MUNICIPAL WATER DISTRICT  
17 1995 Market Street  
18 Riverside, CA 92501  
Design II Section  
Attn: Kyle Gallup

31315 Chaney Street  
Lake Elsinore, CA 92531  
Attn: Imad Biayasi

19           10. If any provision in this Agreement is held by a court of competent  
20 jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless  
21 continue in full force without being impaired or invalidated in any way.  
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23           11. This Agreement is the result of negotiations between the parties hereto, and  
24 the advice and assistance of their respective counsel. No provision contained herein shall be  
25 construed against DISTRICT solely because, as a matter of convenience, it prepared this  
26 Agreement in its final form.  
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1           12. This Agreement is made and entered into for the sole protection and benefit  
2 of the Parties, their successors and assigns, hereto. No other person or entity shall have any  
3 right of action based upon the provisions of this Agreement.

4           13. None of the parties shall have the right to assign its rights and obligations  
5 under this Agreement.

6           14. This Agreement is intended by the parties hereto as a final expression of  
7 their understanding with respect to the subject matter hereof and as a complete and exclusive  
8 statement of the terms and conditions thereof. This Agreement may be changed or modified  
9 only upon the written consent of the parties hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

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(to be filled in by Clerk of the Board)

**RECOMMENDED FOR APPROVAL: RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

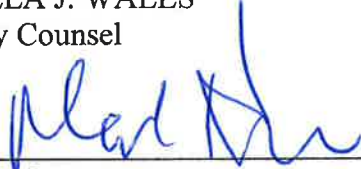
By  By \_\_\_\_\_  
WARREN D. WILLIAMS MARION ASHLEY, Chairman  
General Manager-Chief Engineer Riverside County Flood Control and Water  
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

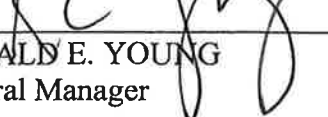
By   
NEAL KIPNIS  
Deputy County Counsel

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

(SEAL)

Arroyo Del Toro Channel, Stage 1  
11/15/12  
TT:AMR:blj:bjp

**ELSINORE VALLEY MUNICIPAL  
WATER DISTRICT**

By  \_\_\_\_\_  
RONALD E. YOUNG  
General Manager

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Arroyo Del Toro Channel, Stage 1  
11/14/12  
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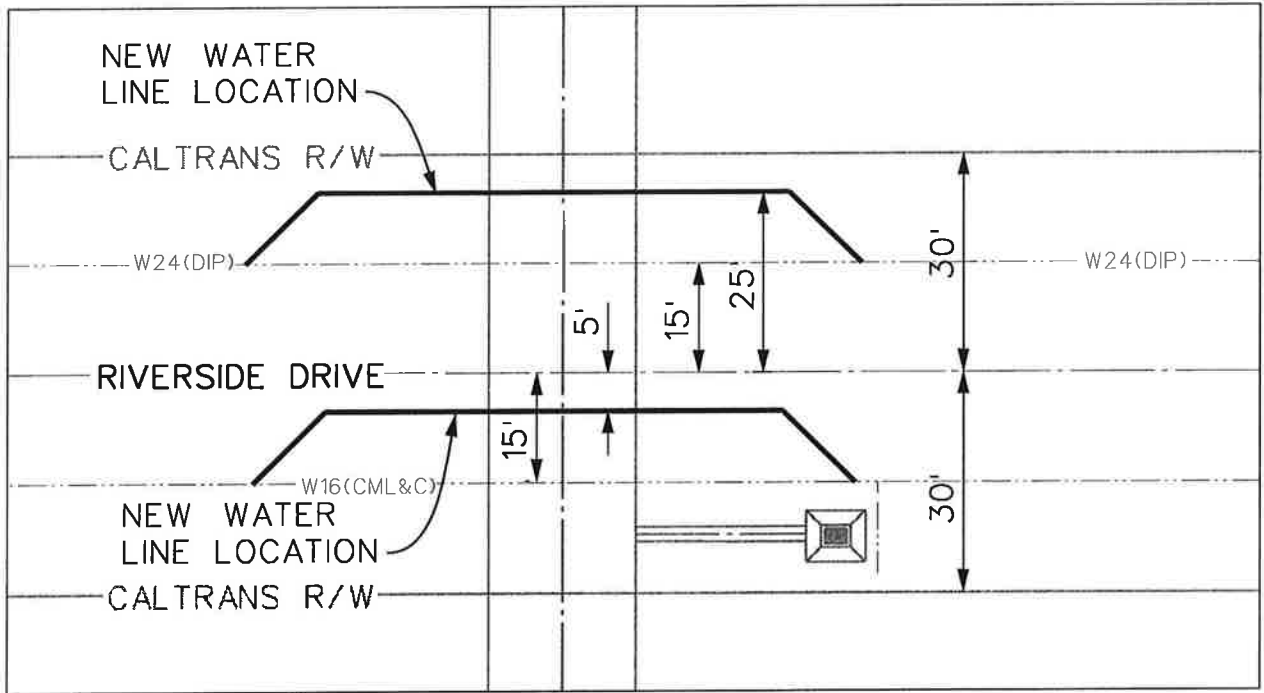


EXHIBIT A  
NTS

<p><b>ARROYO DEL TORO CHANNEL STAGE 1 WATER LINES</b></p>	<p>PROJECT NO. <b>3-0-00170</b></p>
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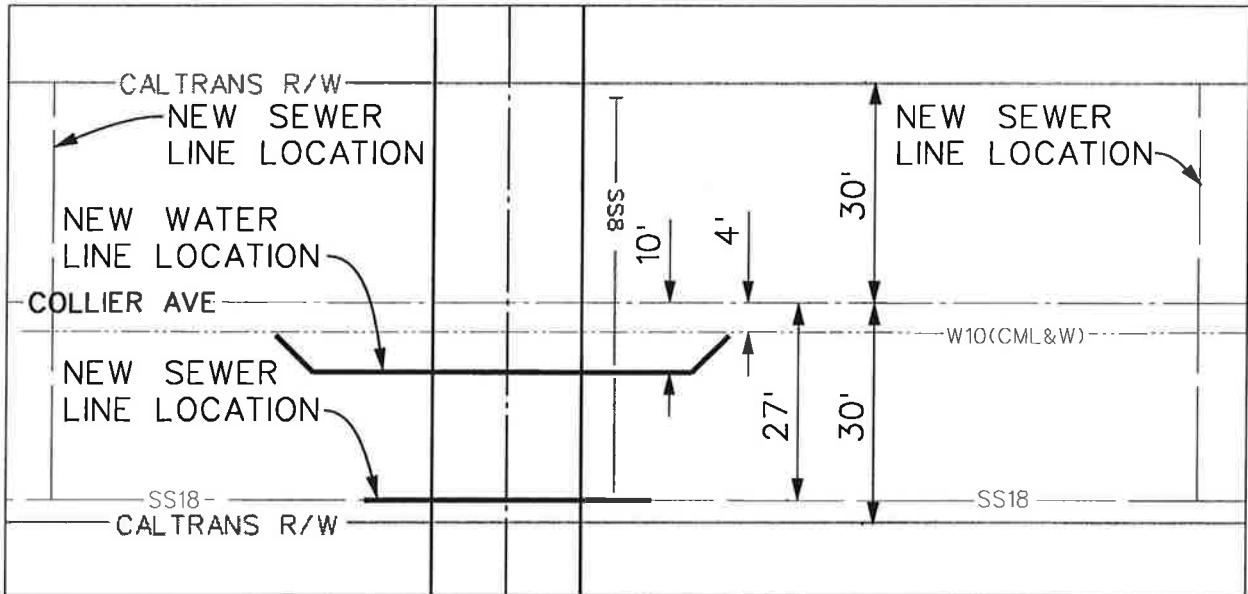


EXHIBIT A  
NTS

<p><b>ARROYO DEL TORO CHANNEL STAGE 1 SEWER LINE AND WATER LINE</b></p>	<p>PROJECT NO. <b>3-0-00170</b></p>
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