

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

711B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
June 17, 2014

SUBJECT: Approval of Cooperative Agreement between District and City of Wildomar for Wildomar Master Drainage Plan Lateral C-1, Project No. 7-0-00076; District 1/1, [\$2,010,000 total], District Funds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the District and the City of Wildomar; and
2. Authorize the Chairman to execute the Cooperative Agreement documents on behalf of the District.

BACKGROUND:

Summary

This Cooperative Agreement (Agreement) sets forth the terms and conditions by which the District will contribute funding to the City of Wildomar for design and construction of Wildomar Master Drainage Plan Lateral C-1 as part of a City administered public works construction contract. Said facility is to be constructed by the City and inspected, operated and maintained by the District and City.

[Continued on Page 2]

AMR:rlp
P8/160912

Steve Thomas
FOR **WARREN D. WILLIAMS**
General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$200,000	\$2,010,000	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ N/A	\$200,000	\$2,010,000	\$ N/A	

SOURCE OF FUNDS: 25170-947520-527980
(Zone 7 Const/Maint/Misc Contracts)

Budget Adjustment: No
For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

APPROVE
[Signature]
BY: **Steven C. Horn**

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

FISCAL PROCEDURES APPROVED
 JEANINE J. REY, FINANCE DIRECTOR
 BY: *[Signature]* 5/27/14
 JEANINE J. REY
 Departmental Counsel
 DATE: *[Signature]* 6/16/14
 NEAL R. KIPNIS

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: _____ District: 1st/1st Agenda Number:

11-3

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

FORM 11: Approval of Cooperative Agreement between District and City of Wildomar for Wildomar Master Drainage Plan Lateral C-1, Project No. 7-0-00076; District 1/1, [\$2,010,000 total]; District Funds 100%

DATE: June 17, 2014

PAGE: 2 of 2

BACKGROUND:**Summary (continued)**

Upon completion of the facility's construction, the District will assume ownership and responsibility of operation and maintenance of storm drains that are greater than 36 inches in diameter. The City of Wildomar will assume ownership and responsibility of operation and maintenance of storm drains that are 36 inches or less in diameter, and various catch basins and connector pipes located within the City's rights of way.

County Counsel has approved the Agreement as to legal form and the City of Wildomar has executed the Agreement.

Impact on Residents and Businesses

The District's financial contribution toward the City's project is funded by ad-valorem property tax revenue and entails no new fees, taxes nor bonded indebtedness to residents and businesses. Upon construction completion, the facility will alleviate ongoing flooding problems and will benefit citizens and businesses in the area.

SUPPLEMENTAL:**Additional Fiscal Information**

The District is funding all costs associated with the design, actual rights of way acquisition and construction of said flood control facility. Sufficient funding will be included in the District's proposed Zone 7 budget for FY 2014-15 and will be included in the proposed budget in future years as appropriate and necessary. Future operations and maintenance costs associated with mainline storm drains that are greater than 36 inches in diameter will accrue to the District.

AMR:rlp

COOPERATIVE AGREEMENT
 Wildomar Master Drainage Plan Lateral C-1
 (aka Billie Ann Road Storm Drain)
 Project No. 7-0-00076

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", and the City of Wildomar, hereinafter called "CITY", hereby agree as follows:

RECITALS

A. CITY has budgeted for and plans to design and construct the Wildomar Master Drainage Plan Lateral C-1, hereinafter called "LAT C-1". Upon construction completion, LAT C-1 will provide drainage improvements within the adjacent areas by collecting and conveying stormwater runoff to DISTRICT'S existing Wildomar Master Drainage Plan Lateral C at the intersection of Palomar and Refa Streets within the City of Wildomar; and

B. LAT C-1 consists of: i) approximately 2,000 lineal feet of underground storm drain system to be constructed mostly within Refa Street from Palomar Street to Charles Street, then extending southeasterly within Charles Street before terminating at Woshka Lane, and ii) approximately 500 lineal feet of underground storm drain lateral to be constructed within Charles Street from Refa Street to Billie Ann Road. LAT C-1 is shown in concept in green on Exhibit "A" attached hereto and made a part hereof; and

C. Associated with the construction of LAT C-1 is the construction of certain lateral storm drains that are thirty-six inches (36") or less in diameter, various catch basins and connector pipes located within CITY rights of way, hereinafter called "APPURTENANCES". LAT C-1 and APPURTENANCES are hereinafter altogether called "PROJECT"; and

1 D. CITY desires that DISTRICT contribute funding for the design and
2 construction of PROJECT; and

3 E. DISTRICT wishes to support CITY'S efforts to construct PROJECT by
4 providing a financial contribution toward PROJECT'S design and construction along with the
5 associated administrative and right-of-way acquisition costs as set forth herein; and

6 F. DISTRICT'S contributions shall be as follows:

7
8 i) One hundred percent (100%) of DISTRICT approved CITY'S
9 engineering design proposal cost to offset CITY'S costs associated with mapping, surveying,
10 engineering, and other typical ancillary costs related to the preparation of the necessary plans
11 and specifications to construct PROJECT, hereinafter called "DESIGN CONTRIBUTION". In
12 the event that CITY chooses to hire an engineering consulting firm to prepare the necessary
13 plans and specifications to construct PROJECT, DISTRICT is also willing to contribute an
14 additional twenty percent (20%) of DESIGN CONTRIBUTION to offset CITY'S administrative
15 costs associated with contract administration, hereinafter called "DESIGN CONTRACT
16 ADMINISTRATION CONTRIBUTION". Together, DESIGN CONTRIBUTION and DESIGN
17 CONTRACT ADMINISTRATION CONTRIBUTION are hereinafter called "TOTAL DESIGN
18 CONTRIBUTION";

19
20 ii) The lowest responsible bid contract price for PROJECT construction
21 is hereinafter called "ORIGINAL BID". DISTRICT is willing to contribute one hundred
22 percent (100%) of ORIGINAL BID, hereinafter called "INITIAL CONSTRUCTION
23 CONTRIBUTION", plus an additional ten percent (10%) of ORIGINAL BID to offset CITY'S
24 administrative costs associated with construction contract administration and other typical
25 ancillary costs related to the delivery of a flood control facility, hereinafter called "CONTRACT
26 ADMINISTRATION CONTRIBUTION", and up to another additional ten percent (10%) of
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1 ORIGINAL BID to offset any construction contract change orders, hereinafter called
2 "CONSTRUCTION CHANGE ORDERS CONTRIBUTION". Together, INITIAL
3 CONSTRUCTION CONTRIBUTION, CONTRACT ADMINISTRATION CONTRIBUTION
4 and CONSTRUCTION CHANGE ORDERS CONTRIBUTION are hereinafter called "TOTAL
5 CONSTRUCTION CONTRIBUTION";
6

7 iii) One hundred percent (100%) of the actual right of way acquisition
8 cost as set forth herein, hereinafter called "ACQUISITION CONTRIBUTION"; and

9 G. Altogether, TOTAL DESIGN CONTRIBUTION, TOTAL
10 CONSTRUCTION CONTRIBUTION and ACQUISITION CONTRIBUTION are hereinafter
11 called "DISTRICT TOTAL CONTRIBUTION". DISTRICT TOTAL CONTRIBUTION shall
12 not exceed a total sum of two million ten thousand dollars (\$2,010,000); and
13

14 H. It is in the best interest of the public to proceed with the construction of
15 PROJECT at the earliest possible date; and

16 I. The purpose of this Agreement is to memorialize the mutual understandings
17 by and between DISTRICT and CITY with respect to funding, design, construction, inspection,
18 ownership, operation and maintenance of PROJECT.

19 NOW, THEREFORE, in consideration of the preceding recitals and the mutual
20 covenants hereinafter contained, the parties hereto mutually agree as follows:
21

22 SECTION I

23 CITY shall:

24 1. Pursuant to the California Environmental Quality Act (CEQA), act as Lead
25 Agency and assume responsibility for preparation, circulation and adoption of all necessary and
26 appropriate CEQA documents pertaining to the construction, operation and maintenance of
27 PROJECT.
28

1 2. Endeavor to award a public works construction contract for PROJECT and
2 begin construction within thirty-six (36) months of execution of this Agreement.

3 3. Provide DISTRICT an opportunity to review and approve PROJECT
4 engineering design cost proposal and associated design schedule. As PROJECT design
5 progresses, CITY shall update said design schedule as requested by DISTRICT.
6

7 4. Prepare or cause to be prepared, the necessary plans and specifications for
8 PROJECT, hereinafter called "IMPROVEMENT PLANS", in accordance with the applicable
9 DISTRICT and CITY standards, and submit to DISTRICT for its review and approval prior to
10 advertising PROJECT for construction bids.

11 5. Obtain, at its sole cost and expense, all necessary permits, approvals, or
12 agreements as may be required by any federal, state and local resource or regulatory agencies
13 pertaining to the construction, operation and maintenance of PROJECT. Such documents,
14 hereinafter called "REGULATORY PERMITS", may include, but are not limited to, a Section
15 404 permit issued by the U.S. Army Corps of Engineers, a Section 401 Water Quality
16 Certification issued by the California Regional Water Quality Control Board (CRWQCB), a
17 Streambed Alteration Agreement issued by the California Department of Fish and Wildlife, and
18 a National Pollutant Discharge Elimination System Permit issued by the State Water Resources
19 Control Board or CRWQCB.
20

21 6. Keep an accurate accounting of all design costs associated with the
22 preparation of plans and specifications for PROJECT, in conformance with DISTRICT
23 approved CITY'S engineering design cost proposal and schedule as set forth in Section I.3, and
24 include this accounting when invoicing DISTRICT for final payment of DESIGN
25 CONTRIBUTION and, if applicable, DESIGN CONTRACT ADMINISTRATION
26 CONTRIBUTION, as set forth in Section I.9.
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1 7. Invoice DISTRICT (Attention: Chief of Design and Construction Division)
2 for fifty percent (50%) of DESIGN CONTRIBUTION upon execution of this Agreement or
3 upon DISTRICT'S approval of CITY'S engineering design cost proposal and schedule as set
4 forth in Section I.3, whichever is later.

5 8. Prior to commencing PROJECT design, provide DISTRICT an opportunity
6 to review and approve the geotechnical report.

7 9. Invoice DISTRICT (Attention: Chief of Design and Construction Division)
8 for remainder of DESIGN CONTRIBUTION and if applicable, DESIGN CONTRACT
9 ADMINISTRATION CONTRIBUTION, following signing of IMPROVEMENT PLANS by all
10 parties.

11 10. Obtain all necessary permits, licenses, agreements, approvals, rights of
12 way, rights of entry and temporary construction easements as may be needed to construct,
13 operate and maintain PROJECT.

14 11. Keep an accurate accounting of all costs associated with the acquisition of
15 rights of way, rights of entry and temporary construction easements for PROJECT, and include
16 this accounting when invoicing DISTRICT for payment of ACQUISITION CONTRIBUTION
17 as provided herein.

18 12. Invoice DISTRICT (Attention: Chief of Design and Construction Division)
19 for the costs incurred by CITY for acquisition of rights of way, rights of entry and temporary
20 construction easements following award of construction contract for PROJECT. However, the
21 total amount of acquisition cost invoiced to DISTRICT for ACQUISITION CONTRIBUTION
22 of rights of way, rights of entry and temporary construction easements shall not exceed one
23 hundred percent (100%) of the appraised values for all acquired parcels plus customary escrow
24 and closing costs.
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1 13. Advertise, award and administer a public works construction contract for
2 PROJECT at its sole cost and expense.

3 14. Prior to awarding a public works construction contract for PROJECT,
4 provide DISTRICT seven (7) calendar days following construction bid opening to review and
5 approve or reject bids for construction of PROJECT. DISTRICT may only reject bids found by
6 DISTRICT to be unreasonably high.

7 15. Provide DISTRICT with written notice (Attention: Contract
8 Administration Section) that CITY has awarded a public works construction contract for
9 PROJECT. The written notice shall include the Contractor's actual bid amounts for PROJECT,
10 setting forth herein the ORIGINAL BID amount.

11 16. Prior to commencing PROJECT construction, furnish DISTRICT with final
12 mylar PROJECT plans and assign ownership of PROJECT plans to DISTRICT.

13 17. Invoice DISTRICT (Attention: Chief of Design and Construction Division)
14 for the payment of INITIAL CONSTRUCTION CONTRIBUTION at the time of providing
15 written notice of the award of a construction contract as set forth in Section I.15.

16 18. Prior to commencing PROJECT construction, schedule and conduct a
17 mandatory pre-construction meeting between CITY, CITY'S construction manager, CITY'S
18 construction contractor(s), DISTRICT and other affected entities. CITY shall notify DISTRICT
19 (Attention: Contract Administration Section) in writing at least twenty (20) days prior to
20 conducting the pre-construction meeting.

21 19. Furnish DISTRICT, at the time of providing written notice of intent to start
22 construction as set forth in Section I.18, with a construction schedule which shall show the order
23 and dates in which CITY or CITY'S contractor proposes to carry on the various parts of work,
24 including estimated start and completion dates.

1 20. Construct or cause to be constructed, PROJECT pursuant to a CITY
2 administered public works construction contract, in accordance with IMPROVEMENT PLANS
3 approved by DISTRICT and CITY, and pay all costs associated therewith.

4 21. Inspect PROJECT construction or cause PROJECT'S construction to be
5 inspected by its construction manager.

6 22. Furnish, or cause its construction manager to furnish, all construction
7 survey and materials testing services necessary to ensure PROJECT construction is
8 accomplished in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

9 23. Grant DISTRICT, by execution of this Agreement, the right to enter upon
10 property owned or controlled by CITY where necessary and convenient for the purpose of
11 gaining access to, and performing inspection service for, the construction of PROJECT.
12

13 24. Order the relocation of all other utilities installed by permit or franchise
14 within CITY rights of way which conflict with the construction of PROJECT and which must be
15 relocated at the utility company's expense.

16 25. Not permit any change to, or modification of, DISTRICT and CITY
17 approved IMPROVEMENT PLANS that would result in a change of functionality or
18 maintainability of PROJECT without DISTRICT'S prior written permission and consent.
19 Failure to do so shall be deemed a material breach of this Agreement and shall authorize and
20 constitute authority for DISTRICT, at its sole discretion, to provide written notice to CITY that
21 DISTRICT is unable to: a) perform its obligations hereunder, and b) to accept responsibility for
22 ownership, operation and maintenance of LAT C-1 due, either in whole or in part, to said breach
23 of this Agreement.
24

25 26. Require its PROJECT construction contractor(s) to procure and maintain
26 comprehensive liability insurance which shall protect DISTRICT and County of Riverside from
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1 claims for damages for personal injury, including accidental or wrongful death, as well as from
2 claims for property damage, which may arise from CITY's or its contractor's construction of
3 PROJECT or the performance of its obligations hereunder, whether such construction or
4 performance be by CITY, the aforementioned construction contractor(s), or any subcontractors
5 to said construction contractor(s), or by anyone employed directly or indirectly by said
6 construction contractor(s) or subcontractors. Such insurance shall provide for coverage limits of
7 not less than two million dollars (\$2,000,000) per occurrence and shall name DISTRICT and
8 County of Riverside as additional insureds with respect to this Agreement and the obligations of
9 CITY hereunder. Said insurance coverage shall be provided by an insurance company licensed
10 to transact insurance business in the State of California, having an A.M. Best rating of A: VIII
11 (A:8) or better, and shall be evidenced by a certificate (or certificates) of insurance indicating
12 that the insurance is in full force and effect and that the DISTRICT and the County of Riverside
13 are named as additional insureds. Said certificate(s) of insurance shall contain the covenant of
14 the insurance carrier(s) that thirty (30) days written notice shall be provided to DISTRICT prior
15 to any modification, cancellation, or reduction in coverage of said insurance.
16
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18 Prior to CITY issuing a Notice to Proceed to its construction contractor(s) to
19 begin construction of PROJECT, an original certificate of insurance evidencing the required
20 insurance coverage shall be provided to DISTRICT.
21

22 27. Require its construction contractor(s) to comply with all Cal/OSHA safety
23 regulations including regulations concerning confined space and maintain a safe working
24 environment for all CITY and DISTRICT employees on the site.

25 28. Require its construction contractor(s) to furnish DISTRICT (Attention:
26 Contract Administration Section) with a confined space procedure specific to PROJECT. The
27 procedure shall comply with requirements contained in California Code of Regulations, Title 8,
28

1 Section 5158, Other Confined Space Operations, Section 5157, Permit Required Confined
2 Space and District confined Space Procedures, SOM-18. The procedure shall be provided to
3 DISTRICT no less than twenty (20) days prior to requesting that DISTRICT perform a final
4 inspection for acceptance of PROJECT. The procedure shall be reviewed and approved by
5 DISTRICT prior to conducting the final inspection.

6
7 29. Assume ownership and sole responsibility for the operation and
8 maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility
9 for the operation and maintenance of LAT C-1 and CITY continues to accept ownership and
10 sole responsibility for the operation and maintenance of APPURTENANCES as set forth herein.

11 30. Within two (2) weeks of completing PROJECT construction, provide
12 DISTRICT with written notice (Attention: Contract Administration Section) that PROJECT
13 construction is substantially complete and requesting that DISTRICT conduct a final inspection
14 of LAT C-1.

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16 31. Upon completion of PROJECT construction and settlement of any
17 outstanding claims, provide DISTRICT with a copy of CITY'S recorded Notice of Completion.

18 32. Upon completion of PROJECT construction but prior to DISTRICT'S
19 acceptance of LAT C-1 for ownership, operation and maintenance, provide or cause its
20 construction manager to provide DISTRICT with appropriate engineering documentation
21 necessary to establish that LAT C-1 was constructed in accordance with DISTRICT and CITY
22 approved IMPROVEMENT PLANS.

23
24 33. Upon completion of PROJECT construction but prior to DISTRICT'S
25 acceptance of LAT C-1 for ownership, operation and maintenance, provide or cause its civil
26 engineer of record or construction civil engineer of record, duly registered in the State of
27 California, to provide DISTRICT with redlined "RECORD DRAWINGS" of PROJECT plans.
28

1 After DISTRICT approval of the redlined "RECORD DRAWINGS", CITY'S engineer shall
2 schedule with DISTRICT a time to transfer the redlined changes into DISTRICT'S original
3 mylars at DISTRICT'S office, after which the engineer shall review, stamp and sign mylars
4 "RECORD DRAWINGS".

5 34. Keep an accurate accounting of all PROJECT construction costs and
6 include this final accounting when invoicing DISTRICT for CONTRACT ADMINISTRATION
7 CONTRIBUTION and CONSTRUCTION CHANGE ORDERS CONTRIBUTION as set forth
8 in Section I.36. The final accounting of construction costs shall include a detailed breakdown of
9 all costs, including but not limited to CITY'S costs associated with administering the
10 construction contract, payment vouchers, DISTRICT approved change orders and other such
11 construction contract documents as may be necessary, to establish the actual cost of construction
12 and its associated CITY'S contract administration cost for the DISTRICT and CITY approved
13 IMPROVEMENT PLANS.
14

15 35. Upon completion of PROJECT construction but prior to DISTRICT
16 acceptance of LAT C-1 for ownership, operation and maintenance, convey, or cause to be
17 conveyed, to DISTRICT all rights of way and easements deemed necessary by DISTRICT for
18 the operation and maintenance of LAT C-1.
19

20 36. Upon DISTRICT acceptance of LAT C-1 for ownership, operation and
21 maintenance, invoice DISTRICT (Attention: Chief of Design and Construction Division) for
22 the remainder payment of TOTAL CONSTRUCTION CONTRIBUTION as follows: i) ten
23 percent (10%) of ORIGINAL BID as set forth in Section I.15 for CONTRACT
24 ADMINISTRATION CONTRIBUTION, and ii) up to another additional ten percent (10%) of
25 ORIGINAL BID for CONSTRUCTION CHANGE ORDERS CONTRIBUTION provided,
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1 8. Review and approve, as appropriate, all necessary REGULATORY
2 PERMITS and rights of way documents prior to CITY advertising PROJECT for bids.
3 DISTRICT may withhold approval of any such document(s) when, in the sole judgment of
4 DISTRICT'S General Manager–Chief Engineer, the said document(s) unreasonably constrains,
5 inhibits or impairs DISTRICT'S ability to operate and maintain LAT C-1.
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7 9. Within seven (7) calendar days following CITY'S public works
8 construction bid opening, review and approve or reject bids for construction of PROJECT.
9 DISTRICT may only reject bids found by DISTRICT to be unreasonably high. DISTRICT shall
10 not unreasonably withhold approval of contract.

11 10. Pay CITY, within thirty (30) days after receipt of CITY'S appropriate
12 invoice for ACQUISITION CONTRIBUTION as set forth in Sections I.11 and I.12.

13 11. Pay CITY, within thirty (30) days after receipt of CITY'S appropriate
14 invoice for INITIAL CONSTRUCTION CONTRIBUTION as set forth in Section I.17.

15 12. Conduct periodic inspections of LAT C-1 construction for quality control
16 purposes at its sole cost and provide any comments to CITY'S designated PROJECT
17 construction inspector.
18

19 13. Upon receipt of CITY'S written notice that PROJECT construction is
20 substantially complete, conduct a final inspection of LAT C-1.
21

22 14. Accept ownership and responsibility for the operation and maintenance of
23 LAT C-1 upon, i) DISTRICT'S inspection of LAT C-1 in accordance with Section I.30, ii)
24 DISTRICT acceptance of LAT C-1 as being complete, iii) DISTRICT'S receipt of CITY'S
25 recorded Notice of Completion as set forth in Section I.31, iv) DISTRICT'S receipt of
26 appropriate engineering documentation as set forth in Section I.32, v) DISTRICT'S receipt of
27 stamped and signed RECORD DRAWINGS of PROJECT plans as set forth in Section I.33, vi)
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1 DISTRICT'S acceptance of all necessary rights of way and/or easements as set forth in Section
2 I.35, and vii) DISTRICT'S sole determination that LAT C-1 is in a satisfactorily maintained
3 condition.

4 15. Pay CITY, within thirty (30) days after receipt of CITY'S appropriate
5 invoice, for remainder of TOTAL CONSTRUCTION CONTRIBUTION as set forth in Sections
6 I.34 and I.36, provided, however, that DISTRICT TOTAL CONTRIBUTION shall not exceed a
7 total sum of two million ten thousand dollars (\$2,010,000).
8

9 SECTION III

10 It is further mutually agreed:

11 1. DISTRICT TOTAL CONTRIBUTION shall not exceed a total sum of two
12 million ten thousand dollars (\$2,010,000) and shall be used by CITY solely for the purpose of
13 designing and constructing PROJECT as set forth herein.
14

15 2. Except as otherwise provided herein, all construction work involved with
16 PROJECT shall be inspected by CITY, or its construction manager, but shall not be deemed
17 complete until DISTRICT and CITY mutually agree that construction is completed in
18 accordance with DISTRICT and CITY approved IMPROVEMENT PLANS. CITY shall not
19 request DISTRICT to accept any portion of PROJECT for ownership, operation or maintenance
20 until PROJECT construction is deemed fully complete and all necessary rights of way have
21 been conveyed as set forth herein.
22

23 3. DISTRICT personnel may observe and inspect all work being done on
24 PROJECT but shall provide any comments to CITY personnel, or its construction manager, who
25 shall be solely responsible for all communications with CITY'S construction contractor(s).
26

27 4. Prior to DISTRICT acceptance of ownership and responsibility for the
28 operation and maintenance of LAT C-1, LAT C-1 shall be in a satisfactorily maintained

1 condition as solely determined by DISTRICT. If, in the sole discretion of DISTRICT, LAT C-1
2 is not in an acceptable condition, corrections will be made at sole expense of CITY.

3 5. CITY shall indemnify, defend, save and hold harmless DISTRICT and
4 County of Riverside (including their respective officers, districts, special districts and
5 departments, their respective directors, officers, Board of Supervisors, elected and appointed
6 officials, employees, agents, representatives, independent contractors, and subcontractors) from
7 any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of
8 or in any way relating to CITY'S (including its officers, employees, agents, representatives,
9 independent contractors, and subcontractors) actual or alleged acts or omissions related to this
10 Agreement, performance under this Agreement, or failure to comply with the requirements of
11 this 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 6. DISTRICT shall indemnify, defend, save and hold harmless CITY
15 (including its officers, employees, agents, representatives, independent contractors, and
16 subcontractors) from any liabilities, claim, damage, proceeding or action, present or future,
17 based upon, arising out of or in any way relating to DISTRICT'S (including its officers, Board
18 of Supervisors, elected and appointed officials, employees, agents, representatives, independent
19 contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement,
20 performance under this Agreement, or failure to comply with the requirements of this
21 Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
22 payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.
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24 7. Any waiver by DISTRICT or by CITY of any breach of any one or more of
25 the terms of this Agreement shall not be construed to be a waiver of any subsequent or other
26 breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to
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1 require exact, full and complete compliance with any terms of this Agreement shall not be
2 construed as in any manner changing the terms hereof, or estopping DISTRICT or CITY from
3 enforcement hereof.

4 8. This Agreement is to be construed in accordance with the laws of the State
5 of California.

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

8 RIVERSIDE COUNTY FLOOD CONTROL
9 AND WATER CONSERVATION DISTRICT
10 1995 Market Street
11 Riverside, CA 92501
Attn: Engineering Services Section

CITY OF Wildomar
23873 Clinton Keith Road, Ste. 201
Wildomar, CA 92595
Attn: Dan York,
Public Works Director

12 10. If any provision in this Agreement is held by a court of competent
13 jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless
14 continue in full force without being impaired or invalidated in any way.

15 11. This Agreement is the result of negotiations between the parties hereto, and
16 the advice and assistance of their respective counsel. The fact that this Agreement was prepared
17 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty
18 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT
19 prepared this Agreement in its final form.

20 12. This Agreement is made and entered into for the sole protection and benefit
21 of the parties hereto. No other person or entity shall have any right or action based upon the
22 provisions of this Agreement.

23 13. Any action at law or in equity brought by any of the parties hereto for the
24 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court of
25 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
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1 waive all provisions of law providing for a change of venue in such proceedings to any other
2 county.

3 14. In the event of any arbitration, action or suit brought by either CITY or
4 DISTRICT against the other party by reason of any breach on the part of the other party of any
5 of the covenants and agreements set forth in this Agreement, or any other dispute between the
6 DISTRICT and CITY concerning this Agreement, the prevailing party in any such action or
7 dispute, by a final judgment or arbitration award, shall be entitled to have and recover from the
8 other party all costs and expenses or claims, including but not limited to, attorney's fees and
9 expert witness fees. This section shall survive any termination of this Agreement.
10

11 15. DISTRICT and CITY each pledge to cooperate in regard to the operation
12 and maintenance of their respective facility as set forth herein and to discharge their respective
13 maintenance responsibilities in an expeditious fashion so as to avoid the creation of any
14 nuisance condition or undue maintenance impact upon the others' facility.
15

16 16. Time is of the essence in prosecuting the work contemplated under this
17 Agreement. At any time during the term of this Agreement, DISTRICT may terminate this
18 Agreement for cause, including but not limited to CITY'S failure to prosecute the work in a
19 timely manner, upon providing CITY thirty (30) days written notice stating the extent and
20 effective date of termination.
21

22 17. The obligation(s) of DISTRICT are limited by and contingent upon the
23 availability of DISTRICT funds for DISTRICT'S financial contribution towards the PROJECT
24 as set forth herein. In the event that such funds are not forthcoming for any reason, DISTRICT
25 shall immediately notify CITY in writing.

26 18. This Agreement is intended by the parties hereto as a final expression of
27 their understanding with respect to the subject matter hereof and as a complete and exclusive
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1 statement of the terms and conditions thereof and supersedes any and all prior and
2 contemporaneous agreements and understandings, oral and written, in connection therewith.

3 This Agreement may be changed or modified only upon the written consent of the parties
4 hereto.

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

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

By Steve Thomas
WARREN D. WILLIAMS
General Manager-Chief Engineer

By _____
MARION ASHLEY, Chairman
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 R. Kipnis
NEAL R. KIPNIS
Deputy County Counsel


By _____
Deputy

(SEAL)

Cooperative Agreement: City of Wildomar
Wildomar MDP Lateral C-1
Project No. 7-0-00076
05/12/14
TT:AMR:rlp

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CITY OF WILDOMAR

By 
GARY NORDQUIST
City Manager

APPROVED AS TO FORM:

ATTEST:

By 
THOMAS D. JEX
City Attorney

By 
DEBBIE A. LEE
City Clerk

(SEAL)

Cooperative Agreement: City of Wildomar
Wildomar MDP Lateral C-1
Project No. 7-0-00076
05/128/2014
TT:AMR:rlp

Exhibit A



COOPERATIVE AGREEMENT
Wildomar Master Drainage Plan Lateral C-1
(aka Billie Ann Road Storm Drain)
Project No. 7-0-00076
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