

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



407B

FROM: General Manager-Chief Engineer

SUBMITTAL DATE: February 26, 2013

SUBJECT: Perris Valley MDP - Line B, Laterals B-8 and B-9, Perris Valley - Lateral B-8A Project Nos. 4-0-00457, 4-0-00458, 4-0-00459 (Parcel Map No. 33942, PP No. 20699R1) Cooperative Agreement District One/District One

RECOMMENDED MOTION:

Approve the Cooperative Agreement between the District, the County of Riverside, and Knox Logistics, LLC (Developer) 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 flood control facilities required as a condition of approval for Parcel Map No. 33942 (PP No. 20699R1) are to be constructed by the Developer and inspected, operated and maintained by the District and the County.

Continued on Page 2

TT:bjj

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

FINANCIAL DATA	Current F.Y. District Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net District Cost:	N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A	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

FORM APPROVED COUNTY COUNSEL BY: *NEAL R. KIRANIS* DATE: *2/26/13*

Departmental Concurrence

- Consent
- Policy
- Consent
- Policy

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

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

On motion of Supervisor Stone, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: February 26, 2013  
xc: Flood

Kecia Harper-Ihem  
Clerk of the Board  
By: *[Signature]*  
Deputy

Prev. Agn. Ref.: | District: 1<sup>st</sup>/1<sup>st</sup> | Agenda Number:

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

11-3

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

**SUBJECT:** Perris Valley MDP - Line B, Laterals B-8 and B-9, Perris Valley – Lateral B-8A  
Project Nos. 4-0-00457, 4-0-00458, 4-0-00459 (Parcel Map No. 33942, PP No. 20699R1)  
Cooperative Agreement

**SUBMITTAL DATE:** February 26, 2013

**Page 2**

**BACKGROUND (continued):**

This Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the Perris Valley MDP - Line B, Laterals B-8 and B-9, and Perris Valley Lateral B-8A. Upon completion of the project construction, the District will assume ownership, operation and maintenance of the referenced flood control facilities excluding catch basins, laterals, connector pipes and a culvert crossing at Harvill Avenue located within County rights of way, which are to be maintained by the County.

County Counsel has approved the Agreement as to legal form. The County and the Developer have executed the Agreement. A companion item appears on the Riverside County Transportation Department's Agenda this same date.

**FINANCIAL:**

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs associated with the mainline flood control facilities will accrue to the District.

TT:blj

1 COOPERATIVE AGREEMENT

2 Perris Valley MDP Lateral B-8

3 Perris Valley – Lateral B-8A

4 Perris Valley MDP Line B and

5 Perris Valley MDP Lateral B-9

6 (Parcel Map No. 33942 and Plot Plan No. 20699R1)

7 Project Nos. 4-0-00457, 4-0-00458 and 4-0-00459

8 The RIVERSIDE COUNTY FLOOD CONTROL AND WATER  
9 CONSERVATION DISTRICT, hereinafter called "DISTRICT", the COUNTY OF  
10 RIVERSIDE, hereinafter called "COUNTY", and KNOX LOGISTICS, LLC, a Delaware  
11 limited liability company, hereinafter called "DEVELOPER", hereby agree as follows:

12 RECITALS

13 A. DEVELOPER plans to develop Parcel Map No. 33942 and Plot Plan No.  
14 20699R1 both located in the unincorporated Mead Valley area of Riverside County, west of  
15 Interstate 215. As a condition of approval for Plot Plan No. 20699R1 and Parcel Map No.  
16 33942, DEVELOPER must construct certain flood control facilities in order to provide flood  
17 protection and drainage for DEVELOPER'S planned development; and

18 B. The required flood control facilities include construction of (i)  
19 approximately 1,100 lineal feet of underground storm drain system, hereinafter called  
20 "LATERAL B-8", as shown in concept in blue on Exhibit "A" attached hereto and made a part  
21 hereof; (ii) approximately 570 lineal feet of underground storm drain system, hereinafter called  
22 "LATERAL B-8A", as shown in concept in yellow on Exhibit "A"; (iii) approximately 1,250  
23 lineal feet of a combination of open channel and reinforced concrete pipe system, hereinafter  
24 called "LINE B", as shown in concept in red on Exhibit "A"; and (iv) approximately 720 lineal  
25 feet of underground storm drain system, hereinafter called "LATERAL B-9", as shown in  
26 concept in green on Exhibit "A". Together, LATERAL B-8, LATERAL B-8A, LINE B and  
27 LATERAL B-9 are hereinafter called "DISTRICT DRAINAGE FACILITIES". At its  
28

1 downstream terminus, LINE B connects to an existing double 54-inch reinforced concrete pipe  
2 that belongs to the State of California Department of Transportation (Caltrans). LATERAL B-  
3 8A connects to LATERAL B-8 and LATERAL B-9 connects to LINE B; and

4 C. Associated with the construction of LINE B is the construction of  
5 approximately 150 lineal feet of reinforced concrete box at Harvill Avenue, hereinafter called  
6 "HARVILL CULVERT", as shown in concept in orange on Exhibit "A". Also associated with  
7 the construction of DISTRICT DRAINAGE FACILITIES is the construction of certain catch  
8 basins, laterals and connector pipes located within COUNTY held rights of way, hereinafter  
9 called "APPURTENANCES". Together HARVILL CULVERT and APPURTENANCES are  
10 hereinafter called "COUNTY FACILITIES"; and

11 D. Also associated with the construction of LINE B is the construction of  
12 approximately 60 lineal feet of reinforced concrete box culvert located underneath a private  
13 driveway, hereinafter called "PRIVATELY OWNED/MAINTAINED CULVERT", as shown  
14 in concept in purple on Exhibit "A"; and

15 E. Together, DISTRICT DRAINAGE FACILITIES, COUNTY  
16 FACILITIES and PRIVATELY OWNED/MAINTAINED CULVERT are hereinafter called  
17 "PROJECT"; and

18 F. DEVELOPER and COUNTY desire DISTRICT to accept ownership and  
19 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.  
20 Therefore, DISTRICT must review and approve PROJECT plans and specifications and  
21 subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES. In addition,  
22 DEVELOPER and COUNTY desire DISTRICT to accept responsibility for sediment and  
23 debris removal of HARVILL CULVERT and PRIVATELY OWNED/MAINTAINED  
24 CULVERT; and

1 G. DEVELOPER and DISTRICT desire COUNTY to accept ownership and  
2 responsibility for the operation and maintenance of COUNTY FACILITIES. Therefore,  
3 COUNTY must review and approve PROJECT plans and specifications and subsequently  
4 inspect the construction of COUNTY FACILITIES.

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

6 SECTION I

7 DEVELOPER shall:

8  
9 1. Prepare PROJECT plans and specifications, hereinafter called  
10 "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and COUNTY  
11 standards, and submit to DISTRICT and COUNTY for their review and approval.

12 2. Continue to pay DISTRICT, within thirty (30) days after receipt of  
13 periodic billings from DISTRICT, any and all such amounts as are deemed reasonably  
14 necessary by DISTRICT to cover DISTRICT'S costs associated with the review of  
15 IMPROVEMENT PLANS, review and approval of right of way and conveyance documents,  
16 and with the processing and administration of this Agreement.

17  
18 3. Deposit with DISTRICT (Attention: Business Office – Accounts  
19 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT  
20 construction as set forth in Section I.8. herein, the estimated cost of providing construction  
21 inspection for PROJECT, in an amount as determined and approved by DISTRICT in  
22 accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any  
23 amendments thereto, based upon the bonded value of PROJECT.

24  
25 4. Grant DISTRICT and COUNTY, by execution of this Agreement, the  
26 right to enter upon DEVELOPER'S property where necessary and convenient for the purpose  
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1 of gaining access to and performing inspection service for the construction of PROJECT as set  
2 forth herein.

3 5. Secure, at its sole cost and expense, all necessary licenses, agreements,  
4 permits and rights of entry as may be needed for the construction, inspection, operation and  
5 maintenance of PROJECT, including, but not limited to, such licenses, agreements, permits,  
6 approvals or rights of entry as may be required from Caltrans, COUNTY or DISTRICT.  
7 DEVELOPER shall furnish DISTRICT and COUNTY, at the time of providing written notice  
8 to DISTRICT of the start of construction as set forth in Section I.8., or not less than twenty  
9 (20) days prior to recordation of the final map for Parcel Map No. 33942 or any phase thereof,  
10 whichever occurs first, with sufficient evidence of DEVELOPER having secured such  
11 necessary licenses, agreements, permits, approvals and rights of entry, as determined and  
12 approved by DISTRICT and COUNTY.  
13

14 6. Furnish DISTRICT with copies of all permits, approvals or agreements  
15 required by any Federal, State or local resource and/or regulatory agency for the construction,  
16 operation and maintenance of PROJECT. Such documents include but are not limited to those  
17 issued by the U.S. Army Corps of Engineers, California Regional Water Quality Control  
18 Board, California State Department of Fish and Wildlife and State Water Resources Control  
19 Board.  
20

21 7. Provide COUNTY, at the time of providing written notice to DISTRICT  
22 of the start of construction as set forth in Section I.8., or not less than twenty (20) days prior to  
23 recordation of the final maps for Parcel Map No. 33942 or any phase thereof, whichever  
24 occurs first, with faithful performance and payment bonds, each in the amount of one hundred  
25 percent (100%) of the estimated cost for construction of PROJECT as determined by  
26 DISTRICT. The surety, amount and form of the bonds shall be subject to the approval of  
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1 DISTRICT and COUNTY. The bonds shall remain in full force and effect until PROJECT is  
2 accepted by DISTRICT as complete; at which time the bond amount may be reduced to ten  
3 percent (10%) for a period of one year to guarantee against any defective work, labor or  
4 materials.

5           8. Notify DISTRICT in writing (Attention: Administrative Services  
6 Section), at least twenty (20) days prior to the start of construction of PROJECT. Construction  
7 shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT has  
8 issued to DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence  
9 construction of PROJECT.  
10

11           9. [This Section Intentionally Left Blank.]

12           10. Obtain and provide DISTRICT (Attention: Right of Way Acquisition  
13 Section), at the time of providing written notice to DISTRICT of the start of construction as set  
14 forth in Section I.8., or not less than twenty (20) days prior to the recordation of the final maps  
15 for Parcel Map No. 33942 or any phase thereof, whichever occurs first, with duly executed  
16 Irrevocable Offers(s) of Dedication to the public for flood control and drainage purposes,  
17 including ingress and egress, for the rights of way deemed necessary by DISTRICT for the  
18 construction, inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES  
19 and for the removal of debris and sediment of PRIVATELY OWNED/MAINTAINED  
20 CULVERT, as shown in concept on Exhibit "A". The Irrevocable Offer(s) of Dedication shall  
21 be in a form approved by DISTRICT and shall be executed by all legal and equitable owners  
22 of the property described in the offer(s).  
23  
24

25           11. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of  
26 Dedication as set forth in Section I.10., with Preliminary Reports on Title dated not more than  
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1 thirty (30) days prior to date of submission of all the property described in the Irrevocable  
2 Offer(s) of Dedication.

3 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT  
4 of the start of construction as set forth in Section I.8., with a complete list of all contractors  
5 and subcontractors to be performing work on PROJECT, including the corresponding license  
6 number and license classification of each. At such time, DEVELOPER shall further identify  
7 in writing its designated superintendent for PROJECT construction.  
8

9 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT  
10 of the start of construction as set forth in Section I.8., a construction schedule which shall  
11 show the order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to  
12 carry on the various parts of work, including estimated start and completion dates. As  
13 construction of PROJECT progresses, DEVELOPER shall update said construction schedule  
14 as requested by DISTRICT.  
15

16 14. Furnish DISTRICT with final mylar plans for PROJECT and assign their  
17 ownership to DISTRICT prior to the start of PROJECT construction.

18 15. Not permit any change to, or modification of, DISTRICT and COUNTY  
19 approved IMPROVEMENT PLANS without the prior written permission and consent of  
20 DISTRICT and COUNTY.  
21

22 16. Comply with all Cal/OSHA safety regulations including regulations  
23 concerning confined space and maintain a safe working environment for DEVELOPER,  
24 COUNTY, and DISTRICT employees on the site.

25 17. Furnish DISTRICT, at the time of providing written notice to DISTRICT  
26 of the start of construction as set forth in Section I.8., a confined space entry procedure  
27 specific to PROJECT. The procedure shall comply with requirements contained in California  
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1 Code of Regulations, Title 8 Section 5158, Other Confined Space Operations, Section 5157,  
2 Permit Required Confined Space and District Confined Space Procedures, SOM-18. The  
3 procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to  
4 Proceed.

5           18. During the construction period of PROJECT, provide Workers'  
6 Compensation Insurance in an amount required by law. A certificate of said insurance policy  
7 shall be provided to DISTRICT and COUNTY at the time of providing written notice pursuant  
8 to Section I.8.  
9

10           19. Commencing on the date notice is given pursuant to Section I.8. and  
11 continuing until DISTRICT accepts DISTRICT DRAINAGE FACILITIES for operation and  
12 maintenance:

- 13                   (a) Provide and maintain or cause its contractor(s) to provide and  
14 maintain comprehensive liability insurance coverage which shall  
15 protect DEVELOPER from claim from damages for personal  
16 injury, including accidental and wrongful death, as well as from  
17 claims for property damage which may arise from DEVELOPER'S  
18 construction of PROJECT or the performance of its obligations  
19 hereunder, whether such construction or performance be by  
20 DEVELOPER, by any of its contractors, subcontractors, or by  
21 anyone employed directly or indirectly by any of them. Such  
22 insurance shall name DISTRICT and COUNTY as additional  
23 insureds with respect to this Agreement and the obligations of  
24 DEVELOPER hereunder. Such insurance shall provide for limits  
25 of not less than two million dollars (\$2,000,000) per occurrence.  
26  
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1 (b) Cause its insurance carrier(s) or its contractor's insurance carrier(s),  
2 who shall be authorized by the California Department of Insurance  
3 to transact the business of insurance in the State of California, to  
4 furnish DISTRICT and COUNTY at the time of providing written  
5 notice to DISTRICT of the start of construction as set forth in  
6 Section I.8., with certificate(s) of insurance and applicable policy  
7 endorsements showing that such insurance is in full force and effect  
8 and that DISTRICT and COUNTY are named as additional  
9 insureds with respect to this Agreement and the obligations of  
10 DEVELOPER hereunder. Further, said certificate(s) shall state that  
11 the issuing company shall give DISTRICT and COUNTY sixty  
12 (60) days written notice in the event of any cancellation,  
13 termination, non-renewal or reduction in coverage of the policies  
14 evidenced by the certificate(s). In the event of any such  
15 cancellation, termination, non-renewal or reduction in coverage,  
16 DEVELOPER shall, forthwith, secure replacement insurance  
17 meeting the provisions of this paragraph.  
18  
19

20 Failure to maintain the insurance required by this paragraph shall be  
21 deemed a material breach of this Agreement and shall authorize and constitute authority for  
22 DISTRICT, at its sole discretion, to proceed to perform the remaining work pursuant to  
23 Section IV.4.  
24

25 20. Construct or cause to be constructed, PROJECT at DEVELOPER'S sole  
26 cost and expense in accordance with DISTRICT and COUNTY approved IMPROVEMENT  
27 PLANS.  
28

1           21. Within two (2) weeks of completing PROJECT construction, provide  
2 DISTRICT (Attention: Contract Administration Section) and COUNTY with written notice  
3 that PROJECT construction is substantially complete and requesting that DISTRICT conduct a  
4 final inspection of DISTRICT DRAINAGE FACILITIES and COUNTY conduct a final  
5 inspection of COUNTY FACILITIES.

6           22. Upon completion of PROJECT construction, and upon acceptance by  
7 COUNTY of all street rights of way deemed necessary by DISTRICT and COUNTY for the  
8 operation and maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT  
9 DRAINAGE FACILITIES for ownership, operation and maintenance, convey, or cause to be  
10 conveyed to DISTRICT the flood control easement(s) or grant deed(s) of fee title where  
11 appropriate, including ingress and egress, for the rights of way as shown in concept cross-  
12 hatched in red on Exhibit "B". The easement(s) or grant deed(s) shall be in a form approved  
13 by DISTRICT and shall be executed by all legal and equitable owners of the property  
14 described in the easement(s) or grant deed(s).  
15

16           23. At the time of recordation of the conveyance document(s) as set forth in  
17 Section I.22., furnish DISTRICT with policies of title insurance, each in the amount of not less  
18 than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each  
19 easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the  
20 estimated fee value, as determined by DISTRICT, for each fee parcel to be conveyed to  
21 DISTRICT, guaranteeing DISTRICT'S interest in said property as being free and clear of all  
22 liens, encumbrances, assessments, easements, taxes and leases (recorded or unrecorded),  
23 except those which, in the sole discretion of DISTRICT, are deemed acceptable.  
24

25           24. Accept ownership and sole responsibility for the operation and  
26 maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility  
27  
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1 for operation and maintenance of DISTRICT DRAINAGE FACILITIES and COUNTY  
2 accepts ownership and responsibility for operation and maintenance of COUNTY  
3 FACILITIES. DEVELOPER shall continue thereafter to own and have sole responsibility for  
4 operating and maintaining the structural integrity of PRIVATELY OWNED/MAINTAINED  
5 CULVERT.

6  
7 25. Pay, if suit is brought upon this Agreement or any bond guaranteeing the  
8 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable  
9 attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses and  
10 fees shall be computed as costs and included in any judgment rendered.

11 26. Upon completion of construction of PROJECT, but prior to DISTRICT  
12 acceptance of DISTRICT DRAINAGE FACILITIES for ownership, operation and  
13 maintenance, provide or cause its civil engineer of record or construction civil engineer of  
14 record, duly registered in the State of California, to provide DISTRICT with a redlined "record  
15 drawings" copy of PROJECT plans. After DISTRICT approval of the redlined "record  
16 drawings", DEVELOPER'S engineer shall schedule with DISTRICT a time to transfer the  
17 redlined changes onto DISTRICT'S original mylars at DISTRICT'S office, after which the  
18 engineer shall review, stamp and sign the original PROJECT plans "record drawings".  
19

20 27. Ensure that all work performed pursuant to this Agreement by  
21 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and  
22 regulations, including but not limited to all applicable provisions of the Labor Code, Business  
23 and Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs  
24 associated with compliance with applicable laws and regulations.  
25

26 28. Upon completion of PROJECT construction, and upon acceptance by  
27 COUNTY of all street rights of way deemed necessary by DISTRICT and COUNTY for the  
28

1 operation and maintenance of PROJECT, but prior to DISTRICT acceptance of responsibility  
2 for performing sediment and debris removal for PRIVATELY OWNED/MAINTAINED  
3 CULVERT, convey or cause to be conveyed to DISTRICT the necessary rights, in a form  
4 approved by DISTRICT, to perform sediment and debris removal for PRIVATELY  
5 OWNED/MAINTAINED CULVERT.

6  
7 SECTION II

8 DISTRICT shall:

9 1. Review and approve IMPROVEMENT PLANS prior to the start of  
10 PROJECT construction.

11 2. Provide COUNTY an opportunity to review and approve  
12 IMPROVEMENT PLANS prior to DISTRICT'S final approval.

13 3. Upon execution of this Agreement, record or cause to be recorded, a copy  
14 of this Agreement in the Official Records of the Riverside County Recorder.

15 4. Record, or cause to be recorded, the Irrevocable Offer(s) of Dedication,  
16 easement(s), or grant deed(s) provided by DEVELOPER pursuant to Sections I.10 and I. 22.

17 5. Inspect construction of DISTRICT DRAINAGE FACILITIES.

18 6. Keep an accurate accounting of all DISTRICT costs associated with the  
19 review and approval of IMPROVEMENT PLANS, the review and approval of right of way  
20 and conveyance documents and the processing and administration of this Agreement.  
21

22 7. [This Section Intentionally Left Blank.]  
23

24 8. Keep an accurate accounting of all DISTRICT construction inspection  
25 costs, and within forty-five (45) days after DISTRICT acceptance of PROJECT as being  
26 complete, submit a final cost statement to DEVELOPER. If the deposit, as set forth in Section  
27 I.3., exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within  
28

1 sixty (60) days after DISTRICT acceptance of PROJECT as being complete. If at any time the  
2 costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit, DEVELOPER  
3 shall pay such additional amount(s), as deemed reasonably necessary by DISTRICT to  
4 complete inspection of PROJECT, within thirty (30) days after receipt of billing from  
5 DISTRICT.

6  
7 9. Accept ownership and sole responsibility for the operation and  
8 maintenance of DISTRICT DRAINAGE FACILITIES upon (i) DISTRICT inspection of  
9 DISTRICT DRAINAGE FACILITIES in accordance with Section I.21., (ii) DISTRICT  
10 acceptance of DISTRICT DRAINAGE FACILITIES construction as being complete, (iii)  
11 COUNTY acceptance of COUNTY FACILITIES construction as being complete, (iv)  
12 DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans as set forth in  
13 Section I.26., (v) recordation of all conveyance documents described in Section I.22., (vi)  
14 acceptance by COUNTY of all necessary street rights of way as deemed necessary by  
15 DISTRICT and COUNTY for the operation and maintenance of PROJECT, (vii) COUNTY  
16 acceptance of COUNTY FACILITIES for ownership, operation and maintenance, and (viii)  
17 DISTRICT'S sole determination that DISTRICT DRAINAGE FACILITIES are in a  
18 satisfactorily maintained condition.  
19

20  
21 10. Provide COUNTY with reproducible duplicate copies of "record  
22 drawings" PROJECT plans upon DISTRICT acceptance of DISTRICT DRAINAGE  
23 FACILITIES as being complete.

24  
25 11. Provide sediment and debris removal for HARVILL CULVERT upon (i)  
26 COUNTY acceptance of ownership and responsibility for operation and maintenance of the  
27 structural integrity of HARVILL CULVERT, and (ii) COUNTY acceptance of  
28 APPURTENANCES for ownership, operation and maintenance.

1 12. Provide sediment and debris removal for PRIVATELY  
2 OWNED/MAINTAINED CULVERT upon conveyance of all necessary rights to District as  
3 set forth in Section I.28.

4 SECTION III

5 COUNTY shall:

6 1. Review and approve IMPROVEMENT PLANS prior to the start of  
7 PROJECT construction.

8 2. Accept COUNTY and DISTRICT approved faithful performance and  
9 payment bonds submitted by DEVELOPER as set forth in Section I.7., and hold said bonds as  
10 provided herein.

11 3. Inspect construction of COUNTY FACILITIES.

12 4. Consent, by execution of this Agreement, to the recording of any  
13 Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.  
14

15 5. If requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication  
16 as set forth herein, and any other outstanding offers of dedication necessary for the  
17 construction, inspection, operation and maintenance of PROJECT and, pursuant to the  
18 authority granted by County of Riverside Resolution No. 2005-291, convey sufficient rights of  
19 way to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain DISTRICT  
20 DRAINAGE FACILITIES.  
21

22 6. Grant DISTRICT, by execution of this Agreement, (i) the right to  
23 construct, inspect, operate and maintain DISTRICT DRAINAGE FACILITIES within  
24 COUNTY rights of way, and (ii) the necessary rights to perform sediment and debris removal  
25 for HARVILL CULVERT within COUNTY rights of way.  
26  
27  
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1                   3. COUNTY and DEVELOPER personnel may observe and inspect all work  
2 being done on DISTRICT DRAINAGE FACILITIES, but shall provide any comments to  
3 DISTRICT personnel who shall be solely responsible for all quality control communications  
4 with the DEVELOPER'S contractor(s) during the construction of DISTRICT DRAINAGE  
5 FACILITIES.

6                   4. DEVELOPER shall complete construction of DISTRICT DRAINAGE  
7 FACILITIES within nine (9) consecutive months after execution of this Agreement and within  
8 ninety (90) consecutive calendar days after commencing work on DISTRICT DRAINAGE  
9 FACILITIES. It is expressly understood that since time is of the essence in this Agreement,  
10 failure of DEVELOPER to perform the work within the agreed upon time shall constitute  
11 authority for DISTRICT to perform the remaining work and require DEVELOPER'S surety to  
12 pay to COUNTY the penal sum of any and all bonds. In which case, COUNTY shall  
13 subsequently reimburse DISTRICT for DISTRICT costs incurred.

14                   5. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed  
15 within twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in  
16 Section I.8.; however, DISTRICT'S construction inspection staff is limited and, therefore, the  
17 issuance of a Notice to Proceed is subject to staff availability.

18                   In the event DEVELOPER wishes to expedite issuance of a Notice to  
19 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at  
20 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate  
21 documentation of the individual's credentials and experience to DISTRICT for review and, if  
22 appropriate, approval. DISTRICT shall review the individual's qualifications and experience  
23 and, upon approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall  
24 be authorized to act on DISTRICT'S behalf on all DISTRICT DRAINAGE FACILITIES  
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1 construction and quality control matters. If DEVELOPER'S initial construction inspection  
2 deposit furnished pursuant to Section I.3. exceeds ten thousand dollars (\$10,000), DISTRICT  
3 shall refund to DEVELOPER up to eighty percent (80%) of DEVELOPER'S initial inspection  
4 deposit within forty-five (45) days of DISTRICT'S approval of DEPUTY INSPECTOR;  
5 however, a minimum balance of ten thousand dollars (\$10,000) shall be retained on account.

6  
7 6. DISTRICT DRAINAGE FACILITIES construction work shall be on a  
8 five (5) day, forty (40) hour work week with no work on Saturdays, Sundays or DISTRICT  
9 designated legal holidays, unless otherwise approved in writing by DISTRICT. If  
10 DEVELOPER feels it is necessary to work more than the normal forty (40) hour work week or  
11 on holidays, DEVELOPER shall make a written request for permission from DISTRICT to  
12 work the additional hours. The request shall be submitted to DISTRICT at least seventy-two  
13 (72) hours prior to the requested additional work hours and state the reasons for the overtime  
14 and the specific time frames required. The decision of granting permission for overtime work  
15 shall be made by DISTRICT at its sole discretion and shall be final. If permission is granted  
16 by DISTRICT, DEVELOPER will be charged the cost incurred at the overtime rates for  
17 additional inspection time required in connection with the overtime work in accordance with  
18 Ordinance Nos. 671 and 749, including any amendments thereto, of the County of Riverside.

19  
20 7. DEVELOPER shall indemnify and hold harmless DISTRICT and  
21 COUNTY (including their agencies, districts, special districts and departments, their  
22 respective directors, officers, Board of Supervisors, elected and appointed officials,  
23 employees, agents and representatives) from any liability, claim, damage, proceeding or  
24 action, present or future, based upon, arising out of or in any way relating to DEVELOPER'S  
25 (including its officers, employees, subcontractors and agents) actual or alleged acts or  
26 omissions related to this Agreement, performance under this Agreement, or failure to comply  
27  
28

1 with the requirements of this Agreement, including but not limited to: (a) property damage; (b)  
2 bodily injury or death; (c) liability or damage pursuant to Article I, Section 19 of the California  
3 Constitution, the Fifth Amendment of the United States Constitution or any other law,  
4 ordinance or regulation caused by the diversion of waters from the natural drainage patterns or  
5 the discharge of drainage within or from PROJECT; or (d) any other element of any kind or  
6 nature whatsoever.

7  
8 DEVELOPER shall defend, at its sole expense, including all costs and  
9 fees (including but not limited to attorney fees, cost of investigation, defense and settlements  
10 or awards), DISTRICT and COUNTY (including their agencies, districts, special districts and  
11 departments, their respective directors, officers, Board of Supervisors, elected and appointed  
12 officials, employees, agents and representatives) in any claim, proceeding or action for which  
13 indemnification is required.

14  
15 With respect to any of DEVELOPER'S indemnification requirements,  
16 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall  
17 have the right to adjust, settle, or compromise any such claim, proceeding or action without the  
18 prior consent of DISTRICT and COUNTY; provided, however, that any such adjustment,  
19 settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S  
20 indemnification obligations to DISTRICT or COUNTY.

21  
22 DEVELOPER'S indemnification obligations shall be satisfied when  
23 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal (or  
24 similar document) relieving DISTRICT or COUNTY from any liability for the claim,  
25 proceeding or action involved.

1                   The specified insurance limits required in this Agreement shall in no way  
2 limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT  
3 and COUNTY from third party claims.

4                   In the event there is conflict between this section and California Civil  
5 Code Section 2782, this section shall be interpreted to comply with California Civil Code  
6 Section 2782. Such interpretation shall not relieve the DEVELOPER from indemnifying  
7 DISTRICT or COUNTY to the fullest extent allowed by law.

8  
9                   8. DEVELOPER shall not request DISTRICT to accept any portion or  
10 portions of DISTRICT DRAINAGE FACILITIES or COUNTY to accept any portion or  
11 portions of COUNTY FACILITIES prior to the completion of PROJECT construction.

12                   9. Any waiver by DISTRICT or by COUNTY of any breach of any one or  
13 more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or  
14 other breach of the same or of any other term hereof. Failure on the part of DISTRICT or  
15 COUNTY to require exact, full and complete compliance with any terms of this Agreement  
16 shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT or  
17 COUNTY from enforcement hereof.

18  
19                   10. This Agreement is to be construed in accordance with the laws of the  
20 State of California.

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

23  
24  
25 RIVERSIDE COUNTY FLOOD CONTROL  
26 AND WATER CONSERVATION DISTRICT  
27 1995 Market Street  
28 Riverside, CA 92501

COUNTY OF RIVERSIDE  
Post Office Box 1090  
Riverside, CA 92502-1090  
Attn: Transportation Department

1 KNOX LOGISTICS, LLC  
2 3501 Jamboree Road, Suite 230  
3 Newport Beach, CA 92660  
4 Attn: David J. Drake

5 12. Any action at law or in equity brought by any of the parties hereto for the  
6 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court  
7 of competent jurisdiction in the County of Riverside, State of California, and the parties hereto  
8 waive all provisions of law providing for a change of venue in such proceedings to any other  
9 county.

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

15 14. The rights and obligations of DEVELOPER shall inure to and be binding  
16 upon all heirs, successors and assignees.

17 15. DEVELOPER shall not assign or otherwise transfer any of its rights,  
18 duties or obligations hereunder to any person or entity without the written consent of the other  
19 parties hereto being first obtained. In the event of any such transfer or assignment,  
20 DEVELOPER expressly understands and agrees that it shall remain liable with respect to any  
21 and all of the obligations and duties contained in this Agreement.

22 16. The individual(s) executing this Agreement on behalf of DEVELOPER  
23 hereby certify that they have the authority within their respective company(ies) to enter into  
24 and execute this Agreement, and have been authorized to do so by any and all boards of  
25 directors, legal counsel, and or any other board, committee or other entity within their  
26  
27  
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1 respective company(ies) which have the authority to authorize or deny entering this  
2 Agreement.

3           17. This Agreement is intended by the parties hereto as a final expression of  
4 their understanding with respect to the subject matter hereof and as a complete and exclusive  
5 statement of the terms and conditions thereof and supersedes any and all prior and  
6 contemporaneous agreements and understandings, oral or written, in connection therewith.

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

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

FEB 26 2013

(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  
MARION ASHLEY, Chairman  
Riverside County Flood Control and Water Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel  
By Neal Kipnis  
NEAL KIPNIS  
Deputy County Counsel

KECIA HARPER-IHEM  
Clerk of the Board  
By Karen Giten  
Deputy  
(SEAL)

RECOMMENDED FOR APPROVAL:

**COUNTY OF RIVERSIDE**

By Juan C. Perez  
JUAN C. PEREZ  
Director of Transportation

By John J. Benoit  
JOHN J. BENOIT, Chairman  
County of Riverside Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel  
By Marsha L. Victor 2/13/13  
MARSHA L. VICTOR  
Principal Deputy County Counsel

KECIA HARPER-IHEM  
Clerk of the Board  
By Karen Giten  
Deputy  
(SEAL)

Cooperative Agreement  
Perris Valley MDP Line B, Laterals B-8 and B-9  
Perris Valley - Lateral B-8A (PM 33942, Plot Plan No. 20699R1)  
Project Nos. 4-0-00457 to 00459  
01/09/2013  
P8/150861

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**KNOX LOGISTICS, LLC,**  
a Delaware limited liability company

By: **Lion-TCC Development II, LLC,**  
a Delaware limited liability company,  
its Managing Member

By: **TC Industrial Associates, Inc.,**  
a Delaware corporation,  
its Managing Member

By:   
\_\_\_\_\_  
**DAVID NAZARYK**  
Vice President

(ATTACH NOTARY WITH  
CAPACITY STATEMENT)

Cooperative Agreement  
Perris Valley MDP Line B, Laterals B-8 and B-9  
Perris Valley – Lateral B-8A (PM 33942, Plot Plan No. 20699R1)  
Project Nos. 4-0-00457 to 00459  
01/09/2013



**ACKNOWLEDGMENT**


State of California  
County of Orange )

On January 18, 2013 before me, R. Flandez, Notary Public  
(insert name and title of the officer)

personally appeared David Nazaryk,  
who proved to me on the basis of satisfactory evidence to be the pers on(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the pers on(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)

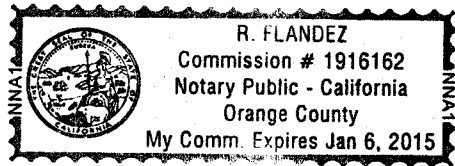


EXHIBIT A

PRIVATELY OWNED/MAINTAINED CULVERT

PURPLE

HARVILL CULVERT  
ORANGE

NANDINA AVENUE

PARCEL 4

LINE B  
RED

EX. 2-54' CULVERTS

BLANDING WAY

PARCEL 3

LATERAL B-9  
GREEN

LINE B  
RED

PARCEL 1

BLUE  
LATERAL B-8

I-215 FREEWAY

HARLEY KNOX BLYD.

HARLEY KNOX BLYD.

LATERAL B-8A  
YELLOW  
PARCEL 1

HARVILL AVE.

PARCEL 2

OLD OLEANDER AVE.



COOPERATIVE AGREEMENT  
PV MDP LINE B, LATERALS B-8 AND B-9  
PV-LATERAL B-8A  
PM33942(PP NO.20699R1)