

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



ITEM  
11.2  
(ID # 6867)

**MEETING DATE:**  
Tuesday, May 8, 2018

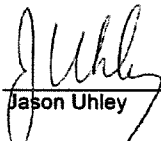
**FROM :** FLOOD CONTROL DISTRICT:

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District and the City of Lake Elsinore for Third Street Channel, Stage 2; Project No. 3-0-00175, District 1. [\$751,900 Total - District Funds 50%, City Funds 50%]

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

1. Approve the Cooperative Agreement between the Riverside County Flood Control and Water Conservation District (District) and the City of Lake Elsinore (City);
2. Authorize the Chairman to execute the Cooperative Agreement documents on behalf of the District; and
3. Direct the Clerk of the Board to return two (2) executed Cooperative Agreements to the District.

**ACTION:** Policy

  
Jason Uhley

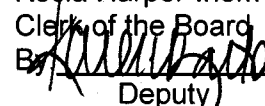
4/26/2018

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**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley  
Nays: None  
Absent: None  
Date: May 8, 2018  
xc: Flood

Kegia Harper-Ihem  
Clerk of the Board  
  
Deputy

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD  
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<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 200,000	\$ 551,900	\$ 751,900	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> 25130-947440-548200 (Zone 3 Const/ Maint/ Misc Infrastructure – 47%); 25130-947440-523220 Zone 3 License and Permits – 3%. District Funds 50%, City Funds 50%			<b>Budget Adjustment: No</b>	
			<b>For Fiscal Year: 17/18 – 20/21</b>	

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

**BACKGROUND:**

**Summary**

This Cooperative Agreement (Agreement) sets forth the terms and conditions by which the District will contribute funding to the City for the design and construction of Third Street Channel, Stage 2 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.

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 will assume ownership and responsibility of operation and maintenance of storm drains that are 36 inches or less in diameter and various catch basins, inlets and connector pipes located within the City's rights of way.

County Counsel has approved the Agreement as to legal form and the City 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 benefitting citizens and businesses in the area.

**Additional Fiscal Information**

Pursuant to the Implementing Agreement for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) executed on June 22, 2004, the Financial Data listed is comprised of the District's total contribution of \$730,000 toward the project, plus up to \$21,900 for MSHCP mitigation for a total of \$751,900. The MSHCP Implementing Agreement requires the District to make a payment to the Western Riverside County Regional Conservation Authority for up to 3% of the total capital costs (bid amount described above) as required mitigation for the construction of flood control facilities. The actual mitigation payment that will

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be made by the District may be reduced based on acquisition of replacement habitat for the benefit of Covered Species, as defined in the Implementing Agreement and the MSHCP.

The District and the City are each funding 50% of all costs associated with the design and construction of said flood control facility. Sufficient funding is available in the District's Zone 3 budget for FY 2017-18 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.

**ATTACHMENTS:**

1. Vicinity Map
2. Cooperative Agreement

AMR:blm  
P8/219413

  
\_\_\_\_\_  
Gregory V. Priapios, Director County Counsel      4/26/2018

COOPERATIVE AGREEMENT  
Third Street Channel, Stage 2  
Project No. 3-0-00175

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The Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and the City of Lake Elsinore, a municipal corporation ("CITY"), hereby agree as follows:

RECITALS

A. CITY has budgeted for and plans to design and construct the Third Street Channel, Stage 2 ("STAGE 2"). Upon construction completion, STAGE 2 will provide necessary flood control and drainage improvements for the immediate adjacent areas located in the city of Lake Elsinore; and

B. STAGE 2 consists of approximately 3,000 lineal feet of underground storm drain system and stub outs to be constructed mostly within Third Street between Collier Avenue and Cambern Avenue, as shown in concept in red on Exhibit "A" attached hereto and made a part hereof. At its downstream terminus, STAGE 2 will connect to CITY's existing facility. At its upstream terminus, STAGE 2 terminates with a concrete bulkhead for future extension; and

C. Associated with the construction of STAGE 2 is the construction of certain lateral storm drains that are thirty-six inches (36") or less in diameter, various catch basins, inlets and connector pipes located within CITY rights of way ("APPURTENANCES"). STAGE 2 and APPURTENANCES are hereinafter altogether called "PROJECT"; and

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

E. DISTRICT wishes to support CITY's efforts to construct PROJECT by providing a financial contribution towards PROJECT's design and construction costs as set forth herein; and

1 F. DISTRICT's contributions shall be as follows:

2 (i) Fifty percent (50%) of DISTRICT approved CITY's engineering design  
3 proposal cost to offset CITY's costs associated with mapping, surveying, engineering, and other  
4 typical ancillary costs related to the preparation of the necessary plans and specifications to  
5 construct PROJECT ("DESIGN CONTRIBUTION"). In the event that CITY chooses to hire an  
6 engineering consulting firm to prepare the necessary plans and specifications to construct  
7 PROJECT, DISTRICT is also willing to contribute an additional ten percent (10%) of the  
8 DESIGN CONTRIBUTION to offset CITY's administrative costs associated with contract  
9 administration ("DESIGN ADMINISTRATION CONTRIBUTION"). Together, DESIGN  
10 CONTRIBUTION and DESIGN ADMINISTRATION CONTRIBUTION are hereinafter called  
11 "TOTAL DESIGN CONTRIBUTION";

12 (ii) The lowest responsible bid contract price for PROJECT construction  
13 ("ORIGINAL BID"). DISTRICT is willing to contribute fifty percent (50%) of ORIGINAL BID  
14 ("INITIAL CONSTRUCTION CONTRIBUTION"), plus an additional five percent (5%) of the  
15 ORIGINAL BID to offset CITY's administrative costs associated with construction contract  
16 administration and other typical ancillary costs related to the delivery of a flood control facility  
17 ("CONTRACT ADMINISTRATION CONTRIBUTION"), and up to another additional five  
18 percent (5%) of the ORIGINAL BID to offset any construction contract change orders  
19 ("CONSTRUCTION CHANGE ORDERS CONTRIBUTION"). Together, INITIAL  
20 CONSTRUCTION CONTRIBUTION, CONTRACT ADMINISTRATION CONTRIBUTION  
21 and CONSTRUCTION CHANGE ORDERS CONTRIBUTION are hereinafter called "TOTAL  
22 CONSTRUCTION CONTRIBUTION"; and

23 G. Altogether, TOTAL DESIGN CONTRIBUTION, and TOTAL  
24 CONSTRUCTION CONTRIBUTION are hereinafter called "DISTRICT TOTAL

1 CONTRIBUTION". DISTRICT TOTAL CONTRIBUTION shall not exceed a total sum of seven  
2 hundred thirty thousand dollars (\$730,000); and

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

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

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

10 SECTION I

11 CITY shall:

12 1. Pursuant to the California Environmental Quality Act (CEQA), act as Lead  
13 Agency and assume responsibility for preparation, circulation and adoption of all necessary and  
14 appropriate CEQA documents pertaining to the construction, operation and maintenance of  
15 PROJECT.

16 2. Endeavor to award a public works construction contract for PROJECT and  
17 begin construction within twenty-four (24) months of execution of this Agreement.

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

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

1           5. Prior to commencing construction, obtain, at its sole cost and expense, all  
2 necessary permits, approvals, or agreements as may be required by any federal, state and local  
3 resource or regulatory agencies pertaining to the construction, operation and maintenance of  
4 PROJECT. Such documents may include, but are not limited to, a Section 404 permit issued by  
5 the U.S. Army Corps of Engineers, a Section 401 Water Quality Certification issued by the  
6 California Regional Water Quality Control Board (CRWQCB), a Streambed Alteration  
7 Agreement issued by the California Department of Fish and Wildlife, and a National Pollutant  
8 Discharge Elimination System Permit issued by the State Water Resources Control Board or  
9 CRWQCB and Western Riverside County Regional Conservation Authority ("REGULATORY  
10 PERMITS").

11           6. Keep an accurate accounting of all design costs associated with the  
12 preparation of plans and specifications for PROJECT, in conformance with DISTRICT approved  
13 CITY's engineering design cost proposal and schedule as set forth in Section I.3, and include this  
14 accounting when invoicing DISTRICT for final payment of DESIGN CONTRIBUTION and, if  
15 applicable, DESIGN ADMINISTRATION CONTRIBUTION, as set forth in Section I.9.

16           7. Invoice DISTRICT (Attention: Special Projects) for twenty five percent  
17 (25%) of DESIGN CONTRIBUTION upon execution of this Agreement or upon DISTRICT's  
18 approval of CITY's engineering design cost proposal and schedule as set forth in Section I.3,  
19 whichever is later.

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

22           9. Invoice DISTRICT (Attention: Special Projects) for remainder of DESIGN  
23 CONTRIBUTION and if applicable, DESIGN ADMINISTRATION CONTRIBUTION,  
24 following signing of IMPROVEMENT PLANS by all parties.

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

4           11. Prior to advertising PROJECT for public works construction contract,  
5 provide DISTRICT an opportunity to review and approve all REGULATORY PERMITS and  
6 rights of way documents. DISTRICT approval of any such document(s) may be withheld when,  
7 in the sole judgment of DISTRICT'S General Manager – Chief Engineer, the said document(s)  
8 unreasonably constrains, inhibits or impairs DISTRICT's ability to operate and maintain STAGE  
9 2.

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

14           13. Advertise, award and administer a public works construction contract for  
15 PROJECT at its sole cost and expense.

16           14. Provide DISTRICT with written notice (Attention: Contraction Management  
17 Section) that CITY has awarded a public works construction contract for PROJECT. The written  
18 notice shall include the Contractor's actual bid amounts for PROJECT, setting forth herein  
19 ORIGINAL BID amount.

20           15. In the event that PROJECT cost exceeds DISTRICT TOTAL  
21 CONTRIBUTION ("EXCESS COST"), within thirty (30) days of awarding PROJECT pay  
22 Riverside Conservation Agency (RCA) CITY's contribution percentage of the EXCESS COST,  
23 which is CITY's portion of the mitigation fee per the 2004 Implementing Agreement for the  
24 Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP").



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

3           17. Invoice DISTRICT (Attention: Special Projects) for the payment of INITIAL  
4 CONSTRUCTION CONTRIBUTION at the time of providing written notice of the award of a  
5 construction contract as set forth in Section I.14.

6           18. Prior to commencing PROJECT construction, schedule and conduct a  
7 mandatory pre-construction meeting between CITY, CITY's construction manager, CITY's  
8 construction contractor(s), DISTRICT and other affected entities. CITY shall notify DISTRICT  
9 (Attention: Special Projects) in writing at least twenty (20) days prior to conducting the pre-  
10 construction meeting.

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

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

18           21. Inspect PROJECT construction or cause PROJECT'S construction to be  
19 inspected by its construction manager, and pay all costs associated therewith. In the event CITY  
20 wishes to utilize DISTRICT's construction inspection, materials testing and construction survey  
21 services, CITY shall provide DISTRICT with written notice (Attn: Special Projects) requesting  
22 such services. However, CITY will continue to serve as construction contract manager.

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

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

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

10          25.    Not permit any change to, or modification of, DISTRICT and CITY  
11 approved IMPROVEMENT PLANS that would result in a change of functionality or  
12 maintainability of PROJECT without DISTRICT's prior written permission and consent. Failure  
13 to do so shall be deemed a material breach of this Agreement and shall authorize and constitute  
14 authority for DISTRICT, at its sole discretion, to provide written notice to CITY that DISTRICT  
15 is unable to: a) perform its obligations hereunder, and b) to accept responsibility for ownership,  
16 operation and maintenance of STAGE 2 due, either in whole or in part, to said breach of this  
17 Agreement.

18          26.    CITY's construction contractor(s) shall not commence operations until  
19 DISTRICT has been furnished with original certificate(s) of insurance and original certified  
20 copies of endorsements and if requested, certified original policies of insurance including all  
21 endorsements and any and all other attachments as required in this Section.

22                Without limiting or diminishing CITY's construction contractor(s) obligation to  
23 indemnify or hold DISTRICT harmless, CITY's construction contractor(s) shall procure and

1 maintain or cause to be maintained, at its sole cost and expense, the following insurance  
2 coverage's during the term of this Agreement:

3 A. Workers' Compensation:

4 If CITY's construction contractor(s) has employees as defined by the  
5 State of California, CITY's construction contractor(s) shall maintain  
6 statutory Workers' Compensation Insurance (Coverage A) as prescribed  
7 by the laws of the State of California. Policy shall include Employers'  
8 Liability (Coverage B) including Occupational Disease with limits not  
9 less than \$1,000,000 per person per accident. Policy shall be endorsed  
10 to waive subrogation in favor of DISTRICT and the County of  
11 Riverside.

12 B. Commercial General Liability:

13 Commercial General Liability insurance coverage, including but not  
14 limited to, premises liability, unmodified contractual liability, products  
15 and completed operations liability, personal and advertising injury, and  
16 cross liability coverage, covering claims which may arise from or out  
17 of CITY's construction contractor(s) performance of its obligations  
18 hereunder. Policy shall name DISTRICT, the County of Riverside, its  
19 agencies, districts, special districts, and departments, their respective  
20 directors, officers, Board of Supervisors, employees, elected or  
21 appointed officials, agents or representatives as additional insureds.  
22 Policy's limit of liability shall not be less than \$2,000,000 per occurrence  
23 combined single limit. If such insurance contains a general aggregate

1 limit, it shall apply separately to this Agreement or be no less than two  
2 (2) times the occurrence limit.

3 C. Vehicle Liability:

4 If CITY's construction contractor(s) vehicles or mobile equipment are  
5 used in the performance of the obligations under this Agreement, then  
6 CITY's construction contractor(s) shall maintain liability insurance for  
7 all owned, non-owned or hired vehicles so used in an amount not less  
8 than \$1,000,000 per occurrence combined single limit. If such insurance  
9 contains a general aggregate limit, it shall apply separately to this  
10 Agreement or be no less than two (2) times the occurrence limit. Policy  
11 shall name DISTRICT, the County of Riverside, its agencies, districts,  
12 special districts, and departments, their respective directors, officers,  
13 Board of Supervisors, employees, elected or appointed officials, agents  
14 or representatives as additional insureds.

15 D. Professional Liability:

16 CITY's construction contractor(s) engaged in providing professional  
17 services, including design and engineering services (hereinafter  
18 "professional construction contractor(s)"), shall maintain Professional  
19 Liability Insurance providing coverage for CITY's professional  
20 construction contractor(s) performance of work included within this  
21 Agreement, with a limit of liability of not less than \$2,000,000 per  
22 occurrence and \$4,000,000 annual aggregate. If CITY's professional  
23 construction contractor(s) Professional Liability Insurance is written on  
24 a claims made basis rather than an occurrence basis, such insurance shall

1 continue through the term of this Agreement and CITY's professional  
2 construction contractor(s) shall purchase at his or her sole expense either  
3 1) an Extended Reporting Endorsement (also known as Tail Coverage);  
4 or 2) Prior Dates Coverage from a new insurer with a retroactive date  
5 back to the date of, or prior to, the inception of this Agreement; or 3)  
6 demonstrate through Certificates of Insurance that CITY's professional  
7 construction contractor has maintained continuous coverage with the  
8 same or original insurer. Coverage provided under items: 1), 2) or 3)  
9 will continue as long as the law allows.

10 E. General Insurance Provisions – All Lines:

- 11 i. Any insurance carrier providing insurance coverage hereunder  
12 shall be admitted to the State of California and have an A.M.  
13 BEST rating of not less than an A: VIII (A: 8) unless such  
14 requirements are waived, in writing, by the County Risk  
15 Manager. If the County Risk Manager waives a requirement for  
16 a particular insurer such waiver is only valid for that specific  
17 insurer and only for one policy term.
- 18 ii. CITY's construction contractor(s) must declare its insurance  
19 self-insured retention for each coverage required herein. If any  
20 such self-insured retention exceeds \$500,000 per occurrence  
21 each such retention shall have the prior written consent of the  
22 County Risk Manager before the commencement of operations  
23 under this Agreement. Upon notification of self-insured  
24 retention deemed unacceptable to DISTRICT, and at the election

1 of the County Risk Manager, CITY's construction contractor(s)  
2 carriers shall either: 1) reduce or eliminate such self-insured  
3 retention with respect to this Agreement with DISTRICT, or 2)  
4 procure a bond which guarantees payment of losses and related  
5 investigations, claims administration, and defense costs and  
6 expenses.

7 iii. CITY's construction contractor(s) shall cause their insurance  
8 carrier(s) to furnish DISTRICT with 1) a properly executed  
9 original certificate(s) of insurance and certified original copies  
10 of endorsements effecting coverage as required herein; and 2) if  
11 requested to do so orally or in writing by the County Risk  
12 Manager, provide original certified copies of policies including  
13 all endorsements and all attachments thereto, showing such  
14 insurance is in full force and effect. Further, said certificate(s)  
15 and policies of insurance shall contain the covenant of the  
16 insurance carrier(s) that a minimum of thirty (30) days written  
17 notice shall be given to DISTRICT prior to any material  
18 modification, cancellation, expiration or reduction in coverage  
19 of such insurance. If CITY's construction contractor(s) insurance  
20 carrier(s) policies does not meet the minimum notice  
21 requirement found herein, CITY's construction contractor(s)  
22 shall cause CITY's construction contractor(s) insurance  
23 carrier(s) to furnish a 30 day Notice of Cancellation  
24 Endorsement. In the event of a material modification,

1 cancellation, expiration or reduction in coverage, this  
2 Agreement shall terminate forthwith, unless DISTRICT  
3 receives, prior to such effective date, another properly executed  
4 original certificate of insurance and original copies of  
5 endorsements or certified original policies, including all  
6 endorsements and attachments thereto, evidencing coverages set  
7 forth herein and the insurance required herein is in full force and  
8 effect. An individual authorized by the insurance carrier to do  
9 so on its behalf shall sign the original endorsements for each  
10 policy and the certificate of insurance.

11 iv. It is understood and agreed by the parties hereto that CITY's  
12 construction contractor(s) insurance shall be construed as  
13 primary insurance, and DISTRICT's insurance and/or  
14 deductibles and/or self-insured retentions or self-insured  
15 programs shall not be construed as contributory.

16 v. If, during the term of this Agreement or any extension thereof,  
17 there is a material change in the scope of services or there is a  
18 material change in the equipment to be used in the performance  
19 of the scope of work which will add additional exposures (such  
20 as the use of aircraft, watercraft, cranes, etc.); or the term of this  
21 Agreement, including any extensions thereof, exceeds five (5)  
22 years, DISTRICT reserves the right to adjust the types of  
23 insurance required under this Agreement and the monetary limits  
24 of liability for the insurance coverages currently required herein,

1 if, in the County Risk Manager's reasonable judgment, the  
2 amount or type of insurance carried by CITY's construction  
3 contractor(s) has become inadequate.

4 vi. CITY's construction contractor(s) shall pass down the insurance  
5 obligations contained herein to all tiers of subcontractors  
6 working under this Agreement.

7 vii. The insurance requirements contained in this Agreement may be  
8 met with a program(s) of self-insurance acceptable to  
9 DISTRICT.

10 viii. CITY's construction contractor(s) agrees to notify DISTRICT of  
11 any claim by a third party or any incident or event that may give  
12 rise to a claim arising from the performance of this Agreement.

13 Prior to CITY issuing a Notice to Proceed to its construction contractor(s) to  
14 begin construction of PROJECT, an original certificate of insurance evidencing the required  
15 insurance coverage shall be provided to DISTRICT.

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

19 28. Require its construction contractor(s) to furnish DISTRICT (Attention:  
20 Contract Management Section) with a confined space procedure specific to PROJECT. The  
21 procedure shall comply with requirements contained in California Code of Regulations, Title 8,  
22 Section 5158, Other Confined Space Operations, Section 5157, Permit Required Confined Space  
23 and District confined Space Procedures, SOM-18. The procedure shall be provided to DISTRICT  
24 no less than twenty (20) days prior to requesting that DISTRICT perform a final inspection for



1 acceptance of PROJECT. The procedure shall be reviewed and approved by DISTRICT prior to  
2 conducting the final inspection.

3           29. Assume ownership and sole responsibility for the operation and maintenance  
4 of PROJECT until such time as DISTRICT accepts ownership and responsibility for the operation  
5 and maintenance of STAGE 2 and CITY continues to accept ownership and sole responsibility  
6 for the operation and maintenance of APPURTENANCES as set forth herein.

7           30. Within two (2) weeks of completing PROJECT construction, provide  
8 DISTRICT with written notice (Attention: Contract Management Section) that PROJECT  
9 construction is substantially complete and requesting that DISTRICT conduct a final inspection  
10 of STAGE 2.

11           31. Upon completion of PROJECT construction and settlement of any  
12 outstanding claims, provide DISTRICT with a copy of CITY's recorded Notice of Completion.

13           32. Upon completion of PROJECT construction but prior to DISTRICT's  
14 acceptance of STAGE 2 for ownership, operation and maintenance, provide or cause its  
15 construction manager to provide DISTRICT with appropriate engineering documentation  
16 necessary to establish that STAGE 2 was constructed in accordance with DISTRICT and CITY  
17 approved IMPROVEMENT PLANS.

18           33. Upon completion of PROJECT construction but prior to DISTRICT's  
19 acceptance of STAGE 2 for ownership, operation and maintenance, provide or cause its civil  
20 engineer of record or construction civil engineer of record, duly registered in the State of  
21 California, to provide DISTRICT with redlined "record drawings" of PROJECT plans. After  
22 DISTRICT approval of the redlined "record drawings", CITY's engineer shall schedule with  
23 DISTRICT a time to transfer the redlined changes into DISTRICT's original mylars at

1 DISTRICT's office, after which the engineer shall review, stamp and sign mylars "record  
2 drawings".

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

12           35. Upon completion of PROJECT construction but prior to DISTRICT  
13 acceptance of STAGE 2 for ownership, operation and maintenance, convey, or cause to be  
14 conveyed, to DISTRICT all rights of way and easements deemed necessary by DISTRICT for the  
15 operation and maintenance of STAGE 2.

16           36. Upon DISTRICT acceptance of STAGE 2 for ownership, operation and  
17 maintenance, invoice DISTRICT (Attention: Special Projects) for the remainder payment of  
18 TOTAL CONSTRUCTION CONTRIBUTION as follows: i) five percent (5%) of ORIGINAL  
19 BID as set forth in Section I.14 for CONTRACT ADMINISTRATION CONTRIBUTION, and  
20 ii) up to another additional five percent (5%) of ORIGINAL BID for CONSTRUCTION  
21 CHANGE ORDERS CONTRIBUTION provided, however, that DISTRICT TOTAL  
22 CONTRIBUTION shall not exceed seven hundred thirty thousand dollars (\$730,000).

23           37. Upon DISTRICT acceptance of PROJECT construction as being complete,  
24 accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located

1 within CITY rights of way which must be performed at such time(s) that the finished grade along  
2 and above the underground portions of PROJECT are improved, repaired, replaced or changed.  
3 It being further understood and agreed that any such adjustments shall be performed at no cost to  
4 DISTRICT.

5 SECTION II

6 DISTRICT shall:

- 7 1. Act as a Responsible Agency under CEQA, taking all necessary and  
8 appropriate action to comply with CEQA.
- 9 2. Review and approve CITY's PROJECT engineering design cost proposal and  
10 associated design schedule.
- 11 3. Review and approve CITY's geotechnical report prior to CITY commencing  
12 PROJECT design.
- 13 4. Pay CITY, within thirty (30) days after receipt of CITY's appropriate invoice  
14 for DESIGN CONTRIBUTION as set forth in Section I.7.
- 15 5. Review and approve IMPROVEMENT PLANS prior to CITY's advertising  
16 PROJECT for construction bids.
- 17 6. Pay CITY, within thirty (30) days after receipt of CITY's appropriate invoice,  
18 for remainder of DESIGN CONTRIBUTION and if applicable, DESIGN ADMINISTRATION  
19 CONTRIBUTION, as set forth in Sections I.6 and I.9.
- 20 7. Review and approve, as appropriate, all necessary REGULATORY  
21 PERMITS and rights of way documents prior to CITY advertising PROJECT for bids.  
22 DISTRICT may withhold approval of any such document(s) when, in the sole judgment of  
23 DISTRICT's General Manager – Chief Engineer, the said document(s) unreasonably constrains,  
24 inhibits or impairs DISTRICT's ability to operate and maintain STAGE 2.

1           8.    Within seven (7) calendar days following CITY's public works construction  
2 bid opening, review and approve or reject bids for construction of PROJECT. DISTRICT may  
3 only reject bids found by DISTRICT to be unreasonably high. DISTRICT shall not unreasonably  
4 withhold approval of contract.

5           9.    Pay CITY, within thirty (30) days after receipt of CITY's appropriate invoice  
6 for INITIAL CONSTRUCTION CONTRIBUTION as set forth in Section I.17.

7           10.   Within thirty (30) days of CITY awarding PROJECT construction contract,  
8 pay Riverside Conservation Agency (RCA) the lesser of 3% of BID PRICE or 3% of BID PRICE  
9 less the value of applicable project-specific mitigation.

10          11.   Conduct periodic inspections of STAGE 2 construction for quality control  
11 purposes at its sole cost and provide any comments to CITY's designated PROJECT construction  
12 inspector.

13          12.   In the event CITY wishes to utilize DISTRICT's construction inspection,  
14 materials testing and construction survey services, and CITY provides DISTRICT with a written  
15 request for such services, DISTRICT shall provide a timely response whether or not they have the  
16 resources to perform such services. If DISTRICT wishes to provide such services, DISTRICT  
17 shall provide all necessary construction inspection, materials testing and construction survey  
18 services for PROJECT and assist CITY as needed with the administration of PROJECT'S  
19 construction contract. DISTRICT hereby agrees to pay all DISTRICT costs associated with the  
20 inspection of PROJECT construction, as set forth herein.

21          13.   Upon receipt of CITY's written notice that PROJECT construction is  
22 substantially complete, conduct a final inspection of STAGE 2.

23          14.   Accept ownership and responsibility for the operation and maintenance of  
24 STAGE 2 upon (i) DISTRICT inspection of STAGE 2 in accordance with Section I.30, (ii)



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

4           4. Prior to DISTRICT acceptance of ownership and responsibility for the  
5 operation and maintenance of STAGE 2, STAGE 2 shall be in a satisfactorily maintained  
6 condition as solely determined by DISTRICT. If, in the sole discretion of DISTRICT, STAGE 2  
7 is not in an acceptable condition, corrections will be made at sole expense of CITY.

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

18           6. DISTRICT shall indemnify, defend, save and hold harmless CITY (including  
19 its officers, employees, agents, representatives, independent contractors, and subcontractors) from  
20 any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of  
21 or in any way relating to DISTRICT's (including its officers, Board of Supervisors, elected and  
22 appointed officials, employees, agents, representatives, independent contractors, and  
23 subcontractors) actual or alleged acts or omissions related to this Agreement, performance under  
24 this Agreement, or failure to comply with the requirements of this Agreement, including but not

1 limited to: (a) property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d)  
2 any other element of any kind or nature whatsoever.

3           7. Any waiver by DISTRICT or by CITY of any breach of any one or more of  
4 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 CITY to  
6 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 CITY from  
8 enforcement hereof.

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

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

13 RIVERSIDE COUNTY FLOOD CONTROL  
14 AND WATER CONSERVATION DISTRICT  
15 1995 Market Street  
16 Riverside, CA 92501  
17 Attn: Special Projects Section

CITY OF LAKE ELSINORE  
130 South Main Street  
Lake Elsinore, CA 92530  
Attn: Brad Fagrell,  
Engineering Division

18  
19  
20           10. If any provision in this Agreement is held by a court of competent jurisdiction  
21 to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full  
22 force without being impaired or invalidated in any way.

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

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

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

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

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

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

21           17. This Agreement is intended by the parties hereto as a final expression of their  
22 understanding with respect to the subject matter hereof and as a complete and exclusive statement  
23 of the terms and conditions thereof and supersedes any and all prior and contemporaneous



1 agreements and understandings, oral and written, in connection therewith. This Agreement may  
2 be changed or modified only upon the written consent of the parties hereto.

3 //

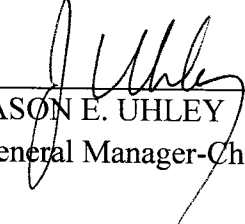
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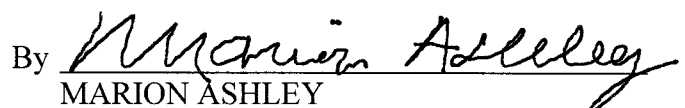
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on  
**MAY 08 2018**

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By   
JASON E. UHLEY  
General Manager-Chief Engineer


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

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By   
Kristine Bell-Valdez  
Deputy County Counsel

By   
Deputy

(SEAL)

Cooperative Agreement: City of Lake Elsinore  
Third Street Channel, Stage 2  
Project No. 3-0-00175  
03/05/18  
AMR:blm

CITY OF LAKE ELSINORE

By *Grant Yates*  
GRANT YATES  
City Manager

APPROVED AS TO FORM:

ATTEST:

By *See next Page*  
BARBARA LEIBOLD  
City Attorney

By *Mark Mahan: Deputy City Clerk*  
For: SUSAN M. DOMEN  
City Clerk

(SEAL)

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AND WATER CONSERVATION DISTRICT**

By \_\_\_\_\_  
JASON E. UHLEY  
General Manager-Chief Engineer

By \_\_\_\_\_  
MARION ASHLEY  
Chairman, Riverside County Flood Control  
and Water Conservation District Board of  
Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By \_\_\_\_\_  
\_\_\_\_\_  
Deputy County Counsel

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

(SEAL)


Cooperative Agreement: City of Lake Elsinore  
Third Street Channel, Stage 2  
Project No. 3-0-00175  
03/05/18  
AMR:blm

**CITY OF LAKE ELSINORE**

By \_\_\_\_\_  
GRANT YATES  
City Manager

APPROVED AS TO FORM:

ATTEST:

By  \_\_\_\_\_  
BARBARA LEIBOLD  
City Attorney

By \_\_\_\_\_  
SUSAN M. DOMEN  
City Clerk

(SEAL)

Cooperative Agreement: City of Lake Elsinore  
Third Street Channel, Stage 2  
Project No. 3-0-00175  
03/05/18  
AMR:blm





**EXHIBIT A**  
**Third Street Channel, Stage 2**  
**Project No. 3-0-00175**

