

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



ITEM: 11.6
(ID # 12117)

MEETING DATE:

Tuesday, April 07, 2020

FROM: FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of the Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District and the City of Perris for Perris Valley MDP – Line L, Stage 2, Miscellaneous No. 179 (Nuevo Bridge Widening Project), Project No. 4-0-00510, Nothing Further is Required Under CEQA, District 5. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the Cooperative Agreement (Agreement) and acceptance of the flood control facilities will not have a significant adverse effect on the environment and that any potentially significant environmental effects have been adequately analyzed in Mitigated Negative Declaration No. 2311 adopted by the Lead Agency (City of Perris) on May 18, 2015;
2. Approve the Cooperative Agreement between the Riverside County Flood Control and Water Conservation District (District) and the City of Perris (City);
3. Authorize the Chairwoman to execute the Agreement documents on behalf of the District; and
4. Direct the Clerk of the Board to return two (2) fully executed original Agreement documents to the District.

ACTION: Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 3/12/2020

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: April 7, 2020
xc: Flood

Kecia R. Harper
Clerk of the Board

By:
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: The City is funding all construction and construction inspection costs (100%)			Budget Adjustment: No	
			For Fiscal Year: N/A	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Cooperative Agreement (Agreement) sets forth the terms and conditions by which the City will construct the Perris Valley MDP Line L, Stage 2 facility, certain Nuevo Road Bridge Improvements and reconstruct certain portions of the District's Perris Valley Channel (Channel) as part of a City-administered public works construction project. Said facilities are to be inspected, operated and maintained by the District and the City.

Said Nuevo Road Bridge Improvements will span the Channel and will not conflict with the Channel's primary function. The City will assure the District's continued operation and maintenance of the Channel.

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection and subsequent operation and maintenance of the facilities. Upon completion of construction, the District will assume ownership and responsibility for the operation and maintenance of approximately 475 lineal feet of widened Channel, stream gauge and Perris Valley MDP Line L, Stage 2 facility. The City will assume ownership and responsibility for the operation and maintenance of the Nuevo Road Bridge Improvements and the project's associated catch basins, inlets, connector pipes and laterals that are 36 inches or less in diameter located within its rights of way.

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

Environmental Findings

Pursuant to Section 15096 of the State CEQA Statutes and Guidelines, the District, in its limited capacity as a Responsible Agency, considered the Mitigated Negative Declaration (MND) prepared by the Lead Agency for the developer's residential project and independently finds that the MND adequately covers the District's project. No significant adverse impacts will result from execution of the Cooperative Agreement or from the operation and maintenance of the flood control facilities that are the subject of the Agreement. As such, nothing further is required under CEQA.

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

Impact on Residents and Businesses

Construction of these facilities are part of the Nuevo Bridge Widening project. The residents and businesses of the City are the primary beneficiaries of the proposed bridge project.


Additional Fiscal Information

All construction, inspection, operation and maintenance costs associated with the public use components will be borne by the City. Future operation and maintenance costs of the approximately 475 lineal feet of widened Channel, stream gauge and Perris Valley MDP Line L, Stage 2 facility will accrue to the District.

ATTACHMENTS:

1. Vicinity Map
2. Cooperative Agreement
3. CEQA Fee Receipt

AMR:rlp
P8/230028


Jason Farin, Senior Management Analyst

4/1/2020


Gregory F. Priamos, Director County Counsel

3/16/2020

STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME
ENVIRONMENTAL FILING FEE CASH RECEIPT

Receipt #: 15-9575

State Clearinghouse # (if applicable): _____

Lead Agency: CITY OF PERRIS Date: 05/19/2015

County Agency of Filing: RIVERSIDE Document No: E-201500383

Project Title: EA 15-05014; NUEVO ROAD WIDENING AND BRIDGE REPLACEMENT PROJECT

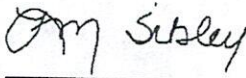
Project Applicant Name: KENNETH PHUNG, PROJECT PLANNER Phone Number: (951) 943-5003

Project Applicant Address: 135 N. D STREET, PERRIS, CA 92570

Project Applicant: PRIVATE ENTITY

CHECK APPLICABLE FEES:

- Environmental Impact Report
 - Negative Declaration \$2,210.00
 - Application Fee Water Diversion (State Water Resources Control Board Only) _____
 - Project Subject to Certified Regulatory Programs _____
 - County Administration Fee \$50.00
 - Project that is exempt from fees (DFG No Effect Determination (Form Attached))
 - Project that is exempt from fees (Notice of Exemption)
- Total Received** \$2,260.00

Signature and title of person receiving payment:  Deputy

Notes:

COOPERATIVE AGREEMENT

Perris Valley MDP – Line L, Stage 2

Project No. 4-0-00510

Miscellaneous No. 179

(Nuevo Bridge Widening Project)

This Cooperative Agreement ("Agreement"), dated as of April 7, 2020, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic, ("DISTRICT"), and the City of Perris, a municipal corporation ("CITY").

RECITALS

A. DISTRICT operates and maintains Perris Valley Channel (Project No. 4-0-00010), hereinafter called "CHANNEL", principally located in the City of Perris. CHANNEL was constructed by DISTRICT for the purpose of providing flood protection and drainage improvements to the Cities of Moreno Valley and Perris, and adjacent unincorporated areas; and

B. CITY has budgeted for and plans to design and construct the Nuevo Road Bridge Improvements and the extension of the existing Perris Valley Master Drainage Plan Line L, Stage 2 facility. The proposed new bridge will span CHANNEL at Nuevo Road within DISTRICT held rights of way; and

C. The Nuevo Road Bridge Improvements, as shown on DISTRICT's Drawing No. 4-1144, includes the construction of (i) widening of approximately 475 lineal feet of DISTRICT's CHANNEL to its ultimate width, including re-grading of the existing CHANNEL to centerline ("CHANNEL WIDENING"), (ii) rip-rap slope protections, retaining wall and headwall, fence and gates ("CHANNEL IMPROVEMENTS"), (iii) removal of an existing undersized concrete slab bridge and reconstruction of slab bridge, abutment, ancillary structures, and roadway segments ("BRIDGE"), and (iv) relocation and construction of a stream gauge to collect storm flow data ("STREAM GAUGE"); and

D. Perris Valley MDP – Line L, Stage 2 ("LINE L STAGE 2"), as shown on DISTRICT's Drawing No. 4-1144 and as identified in DISTRICT's Perris Valley Master Drainage Plan ("MDP"), consists of approximately 615 lineal feet of 66-inch reinforced concrete pipe to be constructed mostly within Nuevo Road between Murrieta Road and DISTRICT's Perris Valley Channel. At its upstream terminus, LINE L STAGE 2 will connect to CITY's existing Perris Valley MDP – Line L, Stage 1 facility, as shown on DISTRICT's Drawing No. 4-0554. At its downstream terminus, LINE L STAGE 2 will outlet at DISTRICT's CHANNEL; and

E. Associated with the construction of LINE L 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"). Together, BRIDGE and APPURTENANCES are hereinafter called "CITY FACILITIES"; and

F. Together, CHANNEL WIDENING, CHANNEL IMPROVEMENTS, STREAM GAUGE, LINE L STAGE 2 are hereinafter called "DISTRICT FACILITIES" as shown in concept in blue on Exhibit "A", attached hereto and made a part hereof. Altogether, DISTRICT FACILITIES and CITY FACILITIES are hereinafter called "PROJECT"; and

G. BRIDGE is proposed to be constructed, in part, within DISTRICT's existing CHANNEL right of way, hereinafter called "CHANNEL RIGHT OF WAY". CHANNEL RIGHT OF WAY constitutes a reach of CHANNEL; and

H. The construction, operation and maintenance of BRIDGE may be accommodated within CHANNEL RIGHT OF WAY to the extent that such uses do not unreasonably interfere with CHANNEL's principal function of providing 100-year flood protection or DISTRICT's ability to operate and maintain CHANNEL; and

I. Subject to the provisions of this Agreement, DISTRICT is willing to (i) allow CITY to cause the construction of PROJECT, (ii) inspect the construction of DISTRICT

FACILITIES, (iii) allow CITY to operate and maintain BRIDGE within CHANNEL RIGHT OF WAY, (iv) convey to CITY all rights of way necessary for the construction, inspection, operation and maintenance of BRIDGE, (v) allow the public to utilize BRIDGE for public conveyance, and (vi) accept responsibility for keeping CHANNEL under BRIDGE free and clear of sediment and debris, and (vii) accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES; and

J. In accordance with the provisions of this Agreement, CITY is willing to (i) prepare, or cause to be prepared, plans and specifications for PROJECT and submit to DISTRICT for its review and approval, (ii) cause the construction and inspection of PROJECT at no cost to DISTRICT, (iii) cause the operation, repair, and maintenance of BRIDGE at no cost to DISTRICT, (iv) accept ownership and responsibility for the operation and maintenance of APPURTENANCES, (v) accept ownership and responsibility for the structural integrity of BRIDGE, (vi) conduct periodic safety inspections of BRIDGE, (vii) conveys to DISTRICT all rights of way necessary for the inspection, operation and maintenance of DISTRICT FACILITIES as set forth herein, (viii) indemnify and hold DISTRICT harmless from any alleged claims for damage arising from CITY's design, use, and operation of BRIDGE, and (ix) indemnify and hold DISTRICT harmless from any claims arising from the public's use of or CITY's responsibilities in connection therewith or the condition thereof; and

K. In conjunction with PROJECT, DISTRICT acquired certain rights of way, Assessor's Parcel Nos. 310-180-038 and 320-430-008, hereinafter called "DISTRICT EASEMENTS". DISTRICT is willing to vacate a portion of DISTRICT EASEMENTS to the public for the ultimate width of BRIDGE and for street and utility improvements, as shown in concept cross-hatched in green on Exhibit "B", attached hereto and made a part hereof; and

L. DISTRICT and CITY, acknowledges it is in the best interest of the public to proceed with the construction of PROJECT at the earliest possible date; and

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

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

SECTION I

CITY shall:

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

2. Prepare or cause to be prepared, plans and specifications for PROJECT, hereinafter together called "IMPROVEMENT PLANS", in accordance with the applicable DISTRICT and CITY standards, and submit to DISTRICT (Attn: Plan Check Section) for review and approval prior to CITY advertising PROJECT for construction bids, and pay all costs associated therewith.

3. Prior to commencing construction, obtain and comply with, at its sole cost and expense, all necessary permits, approvals, or agreements required by any federal, state and local resource or regulatory agencies pertaining to the construction, operation and maintenance of PROJECT. Such documents may include, but are not limited to, a Section 404 permit issued by the U.S. Army Corps of Engineers, a Section 401 Water Quality Certification issued by the California Regional Water Quality Control Board (CRWQCB), a Section 1602 Streambed

Alteration Agreement issued by the California Department of Fish and Wildlife, National Pollutant Discharge Elimination System Permit issued by the State Water Resources Control Board or CRWQCB and Western Riverside County Regional Conservation Authority ("REGULATORY PERMITS").

4. Obtain, at its sole costs and expense, all necessary rights of way, rights of entry and temporary construction easements necessary to construct, inspect, operate and maintain PROJECT.

5. Prior to final approval of IMPROVEMENT PLANS for public works construction contract, provide DISTRICT an opportunity to review and make a determination on all REGULATORY PERMITS and rights of way documents. DISTRICT approval of IMPROVEMENT PLANS may be withheld when, in the sole judgment of DISTRICT's General Manager – Chief Engineer, REGULATORY PERMITS or rights of way documents unreasonably constrains, inhibits or impairs DISTRICT's ability to operate and maintain DISTRICT FACILITIES.

6. Assume sole responsibility for compliance with the requirements of all REGULATORY PERMITS, including any amendments thereto, pertaining to the construction, operation and maintenance of BRIDGE.

7. Ensure that REGULATORY PERMITS, including any subsequent renewal or amendments thereto, will not (i) unreasonably impede DISTRICT's ability to perform all necessary operation and maintenance activities for CHANNEL as determined by DISTRICT, (ii) adversely affects CHANNEL's principal function, or (iii) include any stipulations that would result in additional mitigation obligations being placed upon DISTRICT for maintenance operations within CHANNEL's RIGHT OF WAY.

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

9. Provide DISTRICT with written notice (Attention: Construction Management Section) that CITY has awarded a public works construction contract for PROJECT.

10. Within thirty (30) days of awarding PROJECT construction contract, pay the Western Riverside County Regional Conservation Authority CITY's contribution percentage, which is CITY's portion of the mitigation fee per the 2004 Implementing Agreement for the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP").

11. Prior to commencing PROJECT construction, furnish DISTRICT with final mylar for PROJECT plans and assign ownership of IMPROVEMENT PLANS associated with DISTRICT FACILITIES to DISTRICT.

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

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

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

15. Inspect PROJECT construction or cause PROJECT's construction to be inspected by its construction manager, and pay all costs associated therewith.

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

17. Grant DISTRICT, by execution of this Agreement, the right to enter upon property owned or controlled by CITY where necessary and convenient for the purpose of gaining access to, and performing inspection service for, the construction of DISTRICT FACILITIES, provided that such entry by DISTRICT shall be on mutually agreeable date and time and during CITY's regular hours of operation. DISTRICT shall comply with all CITY regulations and procedures relating to the PROJECT, including, but not limited to, those regulations relating to conduct.

18. Relocate or cause to be relocated, at its sole cost and expense, all conflicting CITY owned utilities. CITY shall also order the relocation of all other utilities installed by permit or franchise within CITY rights of way which conflict with the construction of PROJECT and which could be relocated at the utility company's expense.

19. Not permit any change to, or modification of, DISTRICT and CITY approved IMPROVEMENT PLANS that would result in a change of functionality or maintainability of PROJECT without DISTRICT's prior written permission and consent, which shall not be unreasonably withheld. Failure to do so shall be deemed a material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at its reasonable discretion, to provide written notice to CITY that DISTRICT is unable to: a) perform its obligations hereunder, and b) to accept responsibility for ownership, operation and maintenance of DISTRICT FACILITIES due, either in whole or in part, to said breach of this Agreement.

20. Procure or caused to be procured insurance coverages during the term of this Agreement. CITY shall require its PROJECT construction contractor(s) to furnish original certificate(s) of insurance and original certified copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments. Prior to CITY issuing a Notice to Proceed to its construction contractor(s) to begin construction of PROJECT, an original certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT. At minimum, the procured insurance coverages should adhere to DISTRICT's required insurance provided in EXHIBIT C of this Agreement.

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

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

23. Assume ownership and sole responsibility for the operation and maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES and CITY continues to accept ownership and sole responsibility for the operation and maintenance of CITY FACILITIES as set forth herein.

24. Within two (2) weeks of completing PROJECT construction, provide DISTRICT with written notice (Attention: Construction Management Section) that PROJECT construction is substantially complete and requesting that DISTRICT conduct a final inspection of DISTRICT FACILITIES.

25. Upon completion of PROJECT construction, provide DISTRICT with a copy of CITY's Notice of Completion.

26. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide or cause its construction manager to provide DISTRICT with appropriate engineering documentation necessary to establish that DISTRICT FACILITIES were constructed in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

27. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT with redlined "record drawings" of PROJECT plans. After DISTRICT approval of the redlined "record drawings", CITY's engineer shall schedule with DISTRICT a time to transfer the redlined changes into DISTRICT's original mylars at DISTRICT's office, after which the engineer shall review, stamp and sign mylars "record drawings".

28. Upon completion of PROJECT construction but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, convey, or cause to be conveyed, to DISTRICT all rights of way and easements deemed necessary by DISTRICT for the operation and maintenance of DISTRICT FACILITIES.

29. Upon DISTRICT acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY rights of way which must be performed at such time(s) that the finished grade along and above the underground portions of PROJECT are improved, repaired, replaced or changed. It being further understood and agreed that any such adjustments shall be performed at no cost to DISTRICT.

30. Assume sole responsibility for the design, construction, operation and maintenance of BRIDGE, including all necessary modifications, repairs, corrections or temporary removal as reasonably deemed necessary by DISTRICT for the continuing function, reconstruction, repair or operation and maintenance of CHANNEL.

31. Indemnify, defend and hold harmless and require its construction contractor(s) to indemnify, defend and hold harmless DISTRICT, County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any acts, omissions or services of CITY's construction contractor(s), its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CITY and CITY's construction contractor(s), its officers, employees, subcontractors, agents or representatives Indemnitors from this Agreement. CITY or CITY's construction contractor(s) shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

With respect to any action or claim subject to indemnification herein by CITY or CITY's construction contractor(s), CITY or CITY's construction contractor(s) shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of DISTRICT and the County of Riverside; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CITY's or CITY's construction contractor(s) indemnification to Indemnitees as set forth herein.

CITY and CITY's construction contractor(s) obligation hereunder shall be satisfied when CITY or CITY's construction contractor(s) has provided to DISTRICT and the County the appropriate form of dismissal relieving DISTRICT and the County of Riverside from any liability for the action or claim involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe CITY's construction contractor(s) obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

32. Within CHANNEL RIGHT OF WAY, (i) assume sole responsibility for the operation and maintenance of all CITY constructed improvements, including but not limited to, performing all necessary repairs and the routine removal of trash and debris associated with CITY's use of CHANNEL RIGHT OF WAY, and (ii) assume all liability associated with the use of CHANNEL RIGHT OF WAY including claims of third persons for injury or death or damage to property. Said obligation shall not include any inverse condemnation liability of DISTRICT

by reason of the location of CHANNEL or BRIDGE improvements thereto unless such liability is the result of CITY's operations or use of the property by the public pursuant to CITY's actual or tacit consent.

33. Ensure the safety of the public who may utilize the CHANNEL RIGHT OF WAY by conducting periodic safety inspections and promptly making repairs that are necessary to safeguard the public and its use thereof.

34. Promptly repair any damage to CHANNEL resulting from CITY's use of CHANNEL RIGHT OF WAY herein unless such damage is caused by flooding, or is the result of DISTRICT's customary operation, maintenance or improvements to its facilities located therein.

35. Waive any claim against DISTRICT for damages to BRIDGE resulting from DISTRICT's customary operation and maintenance activities performed within CHANNEL RIGHT OF WAY or its appurtenant works, including any natural calamity, act of God, or any cause or conditions beyond the control of DISTRICT, save and except damages resulting from DISTRICT's active negligence or willful misconduct.

36. Remove within a reasonable time specified by DISTRICT, upon written request by DISTRICT's General Manager-Chief Engineer, any improvements and/or equipment not previously approved by DISTRICT or cease use within the specified time frame where CITY has installed any such improvements and/or equipment or CITY has used or allowed use of CHANNEL RIGHT OF WAY in a manner which, in the sole and reasonable opinion of DISTRICT's General Manager-Chief Engineer, would be detrimental to the operation of CHANNEL.

37. If in the reasonable opinion of the General Manager-Chief Engineer, the public's use of CHANNEL RIGHT OF WAY may cause or contribute to a public hazard, a public

nuisance, degradation of water quality or any other matter of substantial concern to DISTRICT, DISTRICT reserves the right to require reasonable remediation and, if such remediation is unsuccessful, to terminate this Agreement.

SECTION II

DISTRICT shall:

1. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
2. Review, comment and approve, as appropriate, IMPROVEMENT PLANS prior to CITY advertising PROJECT for construction bids. DISTRICT's scope is limited to the CHANNEL's principal function in Recital 'H'.
3. Review, comment and make a determination on, as appropriate, all necessary REGULATORY PERMITS, including any subsequent renewal or amendments thereto, and rights of way documents prior to final execution or acceptance by CITY. DISTRICT's review, comment, and determinations with respect to all such REGULATORY PERMITS, including any subsequent renewal or amendments thereto, and rights of way documents, shall be provided to CITY within thirty (30) days of DISTRICT's receipt of such REGULATORY PERMITS, including any subsequent renewal or amendments thereto, and rights of way documents. DISTRICT may reasonably withhold approval of IMPROVEMENT PLANS when, in the reasonable judgment of DISTRICT's General Manager – Chief Engineer, REGULATORY PERMITS (i) unreasonably constrains, inhibits or impairs DISTRICT's ability to operate and maintain DISTRICT FACILITIES, or (ii) adversely affects CHANNEL's principal function; provided that DISTRICT shall notify CITY of such withholding of approval of IMPROVEMENT PLANS within thirty (30) days of DISTRICT's receipt of IMPROVEMENT PLANS.

4. Grant CITY, by execution of this Agreement, the right to construct, inspect, operate and maintain BRIDGE within CHANNEL RIGHT OF WAY, provided that CITY's activities do not, in any way whatsoever, unreasonably impair CHANNEL's primary flood control purpose and function or otherwise interfere with DISTRICT's ability to operate, maintain, repair or reconstruct CHANNEL or any of its appurtenant works. Said Agreement may be revoked by DISTRICT in the event that said uses unduly compromise CHANNEL's primary flood control purpose and function or unreasonably interfere with DISTRICT's ability to operate and maintain CHANNEL, as determined in DISTRICT's reasonable discretion.

5. Conduct periodic inspections of DISTRICT FACILITIES construction for quality control purposes at its sole cost and provide any comments to CITY's designated PROJECT construction inspector.

6. Upon receipt of CITY's written notice that PROJECT construction is substantially complete, conduct a final inspection of DISTRICT FACILITIES.

7. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT FACILITIES upon (i) DISTRICT inspection of DISTRICT FACILITIES in accordance with Section I.24., (ii) DISTRICT receipt of CITY's recorded Notice of Completion as set forth in Section I.25, (iii) DISTRICT acceptance of DISTRICT FACILITIES construction as being complete, (iii) DISTRICT receipt of appropriate engineering documentation as set forth in Section I.26, (iv) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans, as set forth in Section I.27., (iv) recordation of all conveyance documents described in Section I.28., (v) DISTRICT's acceptance of all necessary rights of way and/or easements for the operation and maintenance of DISTRICT FACILITIES, and (vi) DISTRICT's reasonable determination that DISTRICT FACILITIES are in a satisfactory condition.

8. Vacate a portion of the existing DISTRICT EASEMENTS as set forth in Recital 'K', as shown on Exhibit "B".

9. Continue to maintain CHANNEL's structural integrity, including but not limited to lines and grades, inlets, fencing and ramps to such an extent that CHANNEL continues to function as a flood control facility at its design level.

10. Provide CITY with written notice of (i) any non-compatible use or condition that is not in conformity with the provisions of this Agreement, or (ii) any condition which, in the sole and reasonable opinion of DISTRICT's General Manager-Chief Engineer, could adversely affect the primary flood control function of CHANNEL or DISTRICT's ability to operate and maintain CHANNEL, and grant CITY thirty (30) days, and any mutually agreed upon extensions in time thereto, from and after such notice to correct any such nonconforming use or condition.

11. Assume no responsibility, obligation, or liability whatsoever, for (i) the design, construction, inspection, operation and maintenance of BRIDGE, or (ii) CITY's public's use of CHANNEL RIGHT OF WAY as granted herein, unless done so expressly in writing approved by both parties as an amendment or addendum to this Agreement.

12. Indemnify and hold harmless CITY (including its directors, officers, City Council, elected and appointed officials, agents, employees, representatives, independent contractors, and subcontractors) from any liability whatsoever, based or asserted upon any act or omission of DISTRICT (including its officers, agents, employees, subcontractors, independent contractors, guests and invitees), arising from, related to or in any manner connected with DISTRICT's use and responsibilities in connection therewith of CHANNEL RIGHT OF WAY or the condition thereof, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever. DISTRICT shall defend, at its sole expense,

all costs and fees including but not limited to, attorneys' fees, cost of investigation, defense and settlements or awards, CITY (including its directors, officers, City Council, elected and appointed officials, agents, employees, representatives, independent contractors, and subcontractors) in any claim or legal action based upon such alleged acts or omissions.

DISTRICT's obligation hereunder shall be satisfied when DISTRICT has provided to CITY and CITY's construction contractor the appropriate form of dismissal relieving CITY and CITY's construction contractor from any liability for the action or claim involved.

SECTION III

It is further mutually agreed:

1. DISTRICT reserves the right to terminate this Agreement and any encroachment permit issued thereto, if for any reason whatsoever, DISTRICT reasonably determines that CITY's or public's use of CHANNEL RIGHT OF WAY is not compatible with CHANNEL's primary flood control purpose or function.
2. BRIDGE shall, at all times, remain under sole ownership and the exclusive responsibility of CITY. Nothing herein shall be construed as creating any obligation or responsibility on the part of DISTRICT to operate, maintain or warranty BRIDGE.
3. Except as otherwise provided herein, all construction work associated with BRIDGE shall be inspected by CITY and shall not be deemed complete until approved and accepted as complete by CITY.
4. DISTRICT personnel may observe and inspect all work being done on BRIDGE. It is further mutually agreed by the parties hereto that any quality control comments shall be provided to CITY personnel who, as CITY construction contract administrator, shall be solely responsible for all official communications with its construction contractor(s).

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

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

7. This Agreement is to be construed in accordance with the laws of the State of California.

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

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Design and Construction Division

CITY OF PERRIS
101 North D Street
Perris, CA 92570
Attn: Public Works Department
Engineering Administration

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

10. This Agreement is the result of negotiations between the parties hereto and the advice and assistance of their respective counsel. The fact that this Agreement was prepared as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty

or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT prepared this Agreement in its final form.

11. This Agreement is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the parties hereto.

12. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

//

//

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
APR 07 2020

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By *J. Uhley*
JASON E. UHLEY
General Manager-Chief Engineer

By *Karen S. Spiegel*
KAREN SPIEGEL, Chairwoman
Board of Supervisors, Riverside County Flood
Control and Water Conservation District

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

By *Marsha L. Victor* 3/11/2020
MARSHA L. VICTOR
Deputy County Counsel

By *Karen Harper*
Deputy

(SEAL)




Cooperative Agreement with City of Perris
Perris Valley MDP – Line L, Stage 2
Project No. 4-0-00510
Miscellaneous No. 179
(Nuevo Bridge Widening Project)
AMR:blm
01/13/2020


CITY OF PERRIS

By  _____
RICHARD BELMUDEZ
City Manager

APPROVED AS TO FORM:

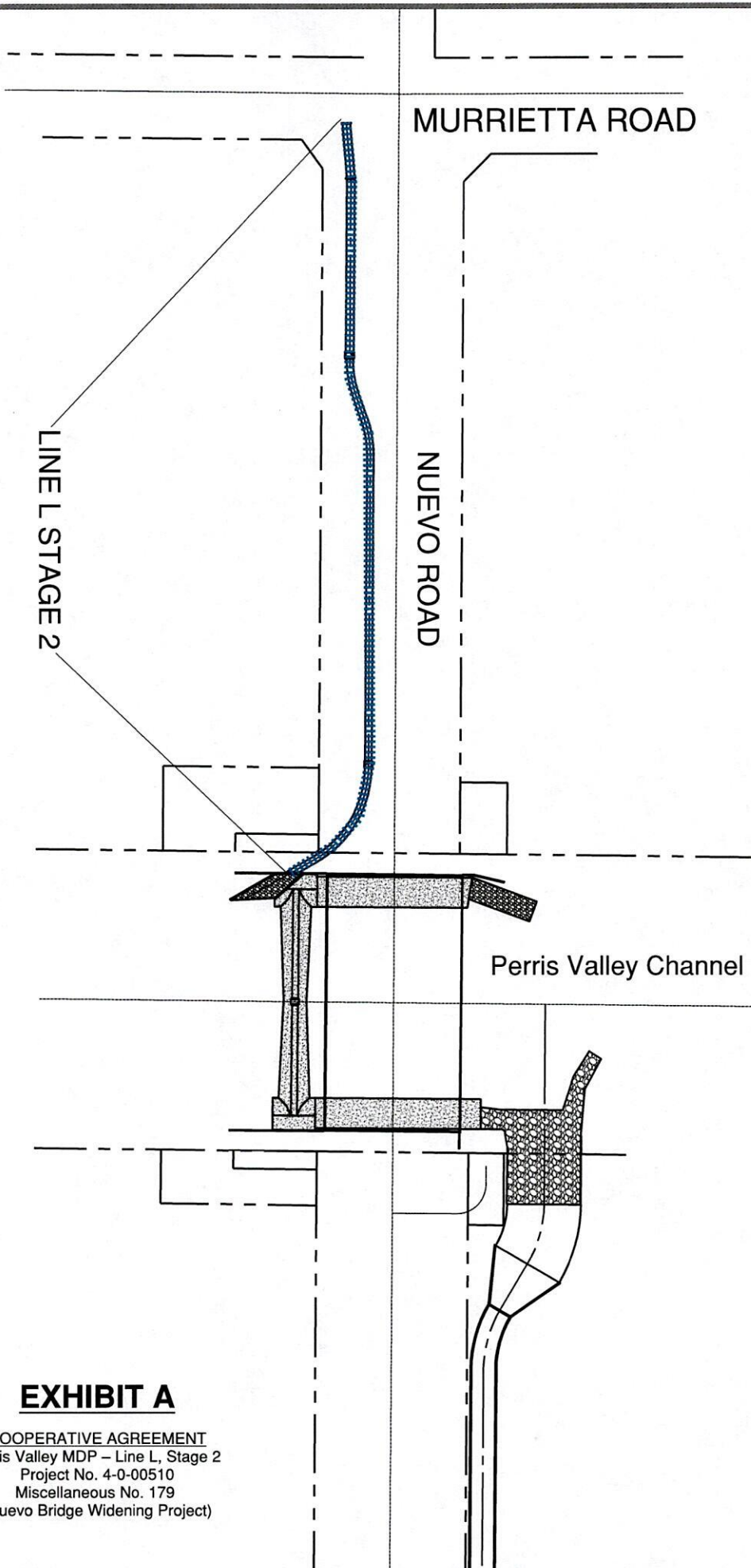
By  _____
ERIC DUNN
City Attorney

ATTEST:

By  _____
NANCY SALAZAR
City Clerk

(SEAL)

Cooperative Agreement with City of Perris
Perris Valley MDP – Line L, Stage 2
Project No. 4-0-00510
Miscellaneous No. 179
(Nuevo Bridge Widening Project)
AMR:blm
01/13/2020



MURRIETTA ROAD

NUEVO ROAD

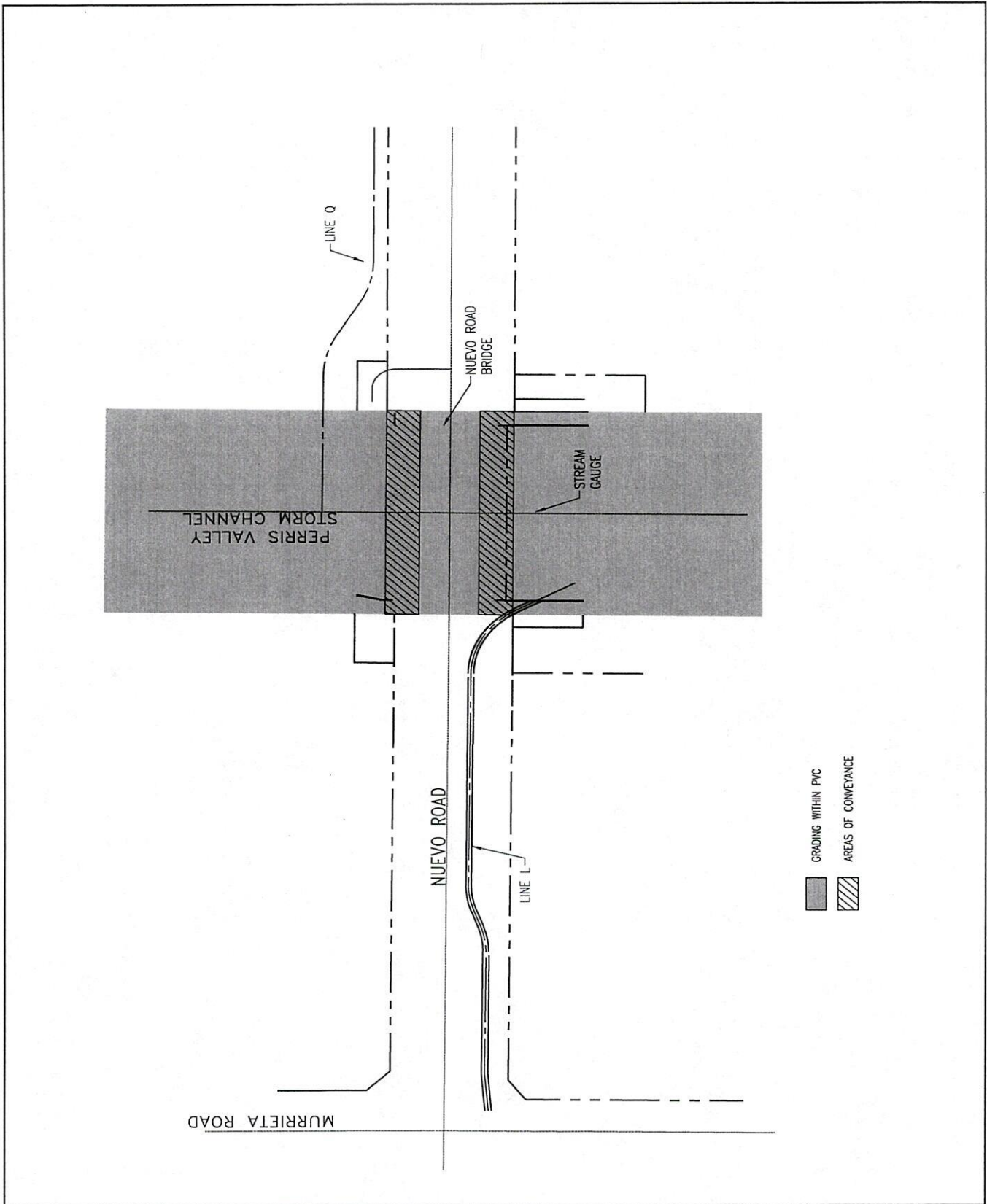
LINE L STAGE 2

Perris Valley Channel

EXHIBIT A

COOPERATIVE AGREEMENT
Perris Valley MDP – Line L, Stage 2
Project No. 4-0-00510
Miscellaneous No. 179
(Nuevo Bridge Widening Project)

EXHIBIT B



COOPERATIVE AGREEMENT
Perris Valley MDP – Line L, Stage 2
Project No. 4-0-00510
Miscellaneous No. 179
(Nuevo Bridge Widening Project)
Page 1 of 1

EXHIBIT C

DISTRICT's Required Insurance is as follows:

Without limiting or diminishing the CITY's or its construction contractor(s) obligation to indemnify or hold DISTRICT harmless, the CITY shall require its construction contractor(s) to procure and maintain or cause to be maintained, at its sole cost and expense and at no cost to the DISTRICT, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the DISTRICT herein refers to the Riverside County Flood Control and Water Conservation District, County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured:

A. Workers' Compensation:

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

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CITY's construction contractor(s) performance of its obligations hereunder. Policy shall name the DISTRICT as Additional Insured. Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

If CITY's construction contractor(s) vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CITY's construction contractor(s) shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit. Policy shall name the DISTRICT as Additional Insured.

D. Pollution and Asbestos Liability:

CITY's construction contractor(s) shall obtain, at its sole expense and keep in effect during the term of the contract, Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) covering CITY's construction contractor(s) liability for a third party bodily injury and property damage arising from pollution conditions caused by the CITY's construction contractor(s) while performing their operations under the contract. The insurance coverage shall apply to sudden and accidental pollution events. Any coverage restriction as to time limit for discovery of a pollution incident and/or a time limit for notice to the insurer must be accepted by the DISTRICT. The insurance coverage shall also respond to cleanup cost. This coverage may be written in combination with the commercial general liability insurance or professional liability insurance.

CITY's construction contractor(s) shall maintain Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. The policy shall be endorsed to state that the general aggregate limit of liability shall apply separately to this contract. Any self-insured retention/deductible amount shall be

COOPERATIVE AGREEMENT

Perris Valley MDP – Line L, Stage 2

Project No. 4-0-00510

Miscellaneous No. 179

(Nuevo Bridge Widening Project)

Page 3 of 9

submitted to the DISTRICT for review and approval. If CITY's construction contractor(s) maintains broader coverage and/or higher limits than the minimums shown above, the DISTRICT requires and shall be entitled to the broader coverage and/or higher limits maintained by CITY's construction contractor(s). Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the DISTRICT.

In the event, CITY's construction contractor(s) encounters materials on the site that is believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, CITY's construction contractor(s) shall immediately stop work in the area affected and report the condition to the DISTRICT in writing. The work in the affected area shall not thereafter be resumed except by written agreement of the DISTRICT and CITY, if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the DISTRICT and CITY.

COOPERATIVE AGREEMENT

Perris Valley MDP – Line L, Stage 2

Project No. 4-0-00510

Miscellaneous No. 179

(Nuevo Bridge Widening Project)

Page 4 of 9

CITY's construction contractor(s) shall not be required to perform without consent any work relating to asbestos or polychlorinated biphenyl (PCB).

E. Professional Liability:

CITY's construction contractor(s) shall cause any architect or engineer retained by CITY's construction contractor(s) in connection with the performance of CITY's construction contractor(s) obligations under this Agreement to maintain Professional Liability Insurance providing coverage for the performance of their work included within this Agreement, with a limit of liability of not less than \$2,000,000 per occurrence and \$4,000,000 annual aggregate. If CITY's construction contractor(s) shall require that, if such Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and that such architect or engineer shall purchase at such architect or engineer's sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that such architect or engineer has maintained continuous coverage with the

same or original insurer. Coverage provided under items: 1), 2) or 3) will continue as long as the law allows.

F. General Insurance Provisions – All Lines:

a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A:VIII (A:8) unless such requirements are waived, in writing, by the DISTRICT Risk Manager. If the DISTRICT's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

b. The CITY's construction contractor(s) must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the DISTRICT Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention deemed unacceptable to the DISTRICT, and at the election of the DISTRICT's Risk Manager, CITY's construction contractor(s) carriers shall either: 1) reduce or eliminate such self-insured retention with respect to this

COOPERATIVE AGREEMENT

Perris Valley MDP – Line L, Stage 2

Project No. 4-0-00510

Miscellaneous No. 179

(Nuevo Bridge Widening Project)

Page 6 of 9

Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

- c. CITY's construction contractor(s) shall cause their insurance carrier(s) to furnish DISTRICT with 1) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; and 2) if requested to do so orally or in writing by the DISTRICT Risk Manager, provide original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to the DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If CITY's construction contractor(s) insurance carrier(s) policies does not meet the minimum notice requirement found herein, CITY's construction contractor(s) shall cause CITY's construction contractor(s) insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.

COOPERATIVE AGREEMENT

Perris Valley MDP – Line L, Stage 2

Project No. 4-0-00510

Miscellaneous No. 179

(Nuevo Bridge Widening Project)

Page 7 of 9

- d. In the event of a material modification, cancellation, expiration or reduction in coverage, this Agreement shall terminate forthwith, unless DISTRICT receives, prior to such effective date, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto, evidencing coverages set forth herein and the insurance required herein is in full force and effect. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.
- e. It is understood and agreed by the parties hereto that CITY's construction contractor(s) insurance shall be construed as primary insurance, and DISTRICT's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- f. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this

Agreement, including any extensions thereof, exceeds five (5) years, DISTRICT reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverages currently required herein, if, in the DISTRICT Risk Manager's reasonable judgment, the amount or type of insurance carried by CITY's construction contractor(s) has become inadequate.

- g. CITY's construction contractor(s) shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- h. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.
- i. CITY's construction contractor(s) agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

COOPERATIVE AGREEMENT

Perris Valley MDP – Line L, Stage 2

Project No. 4-0-00510

Miscellaneous No. 179

(Nuevo Bridge Widening Project)

Page 9 of 9