

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



ITEM: 11.3
(ID # 14853)

MEETING DATE:
Tuesday, April 13, 2021

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 E, Stage 5 (Miscellaneous No. 197), Project No. 4-0-00488, CEQA Exempt, District 5. [\$4,300,000 Not-to-Exceed Cost – District Zone 4 Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Finds that this Cooperative Agreement (Agreement) is exempt from the California Environmental Quality Act (CEQA) as it has been determined that the Agreement is exempt under Section 15061(b)(3) of the State CEQA Guidelines;
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 Chair 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 Cooperative Agreement documents to the District.

ACTION: Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

3/31/2021

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, 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 13, 2021
xc: Flood

Kecia R. Harper
Clerk of the Board
By:
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 750,000	\$ 3,550,000	\$ 4,300,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Zone 4 Funds 100% (See Additional Fiscal Information)			Budget Adjustment: No	
			For Fiscal Year: 20/21 – 24/25	

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 to design and construct the Perris Valley MDP Line E, Stage 5 project as part of a City administered public works construction contract. Said facility is to be inspected, operated and maintained by the District and City.

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 facility. Upon completion of the drainage facility construction, the District will assume ownership, operation and maintenance of Perris Valley MDP Line E, Stage 5. The City will assume ownership and responsibility for the operation and maintenance of 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

The Agreement is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), which states, "The activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." This Agreement sets forth the terms and conditions by which the District will contribute funding to the City to develop and implement the Perris Valley MDP Line E, Stage 5 project as part of a City administered public works construction contract. The City will act as Lead Agency and obtain the necessary approvals and agreements pertaining to the construction, operation and maintenance of the future project. The City will also assume responsibility for preparation, circulation and adoption of all necessary and appropriate CEQA documents pertaining to the construction, operation and maintenance of the future project. Therefore, nothing further is required.

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Impact on Residents and Businesses

The District's financial contribution toward the City's project is funded by the Perris Valley Area Drainage Plan.

Upon construction completion, this project will (i) serve as an outlet for existing and future storm drains in the area; and (ii) provide improved drainage and flood protection at the intersection of Ramona Expressway and Perris Boulevard.

The residents and businesses of city of Perris are the primary beneficiaries of the project. Ancillary benefits will accrue to the public who will utilize the roadways.

Additional Fiscal Information

The District's contribution to the City is to design and construct said flood control facility. Funding is available in the Perris Valley Area Drainage Plan. Future operation and maintenance costs associated with said storm drains that are greater than 36 inches in diameter will accrue to the District.

Funding Summary

Estimated Design and Administration Contribution	\$ 1,500,000
Estimated Construction Contribution	\$ 2,800,000
Maximum District Contribution to the City	\$ 4,300,000
Total Estimated District Cost	\$ 4,300,000


SOURCE OF FUNDS: (Continued)

- 25140-947460-536200 Contribution to Non-County Agency – Zone 4

ATTACHMENTS:

1. Vicinity Map
2. Cooperative Agreement

AMR:blm
P8/237325


Jason Farin, Principal Management Analyst

4/6/2021


Gregory L. Priamos, Director County Counsel

4/1/2021

COOPERATIVE AGREEMENT
Perris Valley MDP Line E, Stage 5
Project No. 4-0-00488
Miscellaneous No. 197

This Cooperative Agreement ("AGREEMENT"), dated as of April 13, 2021, is entered into by the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and the City of Perris, a municipal corporation ("CITY"). DISTRICT and CITY are individually referred to herein as "party" and collectively referred to herein as "parties".

RECITALS

A. DISTRICT has budgeted, and CITY has planned to design and construct the Perris Valley MDP Line E, Stage 5 ("LINE E STAGE 5"). Upon construction completion, LINE E STAGE 5 will provide necessary flood control and drainage improvements for the immediate adjacent areas located in the city of Perris; and

B. LINE E STAGE 5, as shown on District Drawing No. 4-1155 and as identified in DISTRICT's Perris Valley Master Drainage Plan ("MDP"), consists of approximately 5,700 lineal feet of underground storm drain system to be constructed mostly within Ramona Expressway from Indian Avenue to DISTRICT's Perris Valley Channel, as shown in concept in blue on Exhibit "A" attached hereto and made a part hereof. At its upstream terminus, LINE E STAGE 5 will connect to the proposed Perris Valley MDP Line E, Stage 4 facility. At its downstream terminus, LINE E STAGE 5 will connect and convey flows to DISTRICT's Perris Valley Channel facility; and

C. Associated with the construction of LINE E STAGE 5 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"). LINE E STAGE 5 and APPURTENANCES are hereinafter altogether called "PROJECT"; and

D. CITY and DISTRICT have determined that construction of PROJECT is vital to the future well-being of the community as it will serve as an outlet for existing and future storm drains in the area; and

E. DISTRICT and CITY wish to work collaboratively to expedite the construction of PROJECT, therefore desire to have one agency take a lead role in the development and implementation of PROJECT; and

F. CITY is willing to assume the lead role for PROJECT, and therefore will provide the administrative, technical, managerial, and support services necessary to plan, design, finance and construct PROJECT; and

G. Due to mutual interests in this PROJECT, DISTRICT wishes to support CITY's efforts by providing a financial contribution to design and construct PROJECT; and

H. DISTRICT has budgeted for and is willing to allocate Four Million Three Hundred Thousand Dollars (\$4,300,000) of funds accrued to the Perris Valley Area Drainage Plan (ADP) for PROJECT, as set forth herein; and

I. DISTRICT's contributions shall be as follows, subject to the not to exceed amount provided in Recital J below:

(i) One hundred percent (100%) of DISTRICT approved CITY's costs associated with mapping, surveying, engineering, regulatory permits, and other typical ancillary costs related to the preparation of the necessary plans and specifications to construct PROJECT ("DESIGN CONTRIBUTION"). DESIGN CONTRIBUTION shall not exceed a cap of One Million Five Hundred Thousand Dollars (\$1,500,000);

(ii) Funding contribution towards the lowest responsible bid contract price ("CONSTRUCTION CONTRIBUTION"); and

J. Altogether, DESIGN CONTRIBUTION, and CONSTRUCTION CONTRIBUTION are hereinafter called "DISTRICT TOTAL CONTRIBUTION". DISTRICT TOTAL CONTRIBUTION shall not exceed a total sum of Four Million Three Hundred Thousand Dollars (\$4,300,000); and

K. CITY agrees to fund and secure all remaining costs of PROJECT that exceeds DISTRICT TOTAL CONTRIBUTION, as set forth herein; and

L. DISTRICT and CITY acknowledge 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 funding, 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. Accept the above recitals as true and correct and incorporated into the terms of this Agreement.
2. 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.

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

4. Upon execution of this Agreement, issue an invoice to DISTRICT (Attn: Chief of Planning Division) for fifty percent (50%) of the DESIGN CONTRIBUTION, as set forth herein. DESIGN CONTRIBUTION shall not exceed the total amount of One Million Five Hundred Thousand Dollars (\$1,500,000).

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

6. Prepare or cause to be prepared, the necessary plans and specifications for PROJECT, hereinafter called "IMPROVEMENT PLANS", in accordance with the applicable DISTRICT and CITY standards, and submit to DISTRICT (Attention: Special Projects) for its review and approval prior to advertising PROJECT for construction bids.

7. Prior to commencing construction, obtain all necessary permits, approvals, or agreements as may be 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 Streambed Alteration Agreement issued by the California Department of Fish and Wildlife, and a 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"). Allow DISTRICT to review all REGULATORY PERMITS applications. Allow DISTRICT to review, comment on and

approve all REGULATORY PERMITS applications prior to submitting the applications to the applicable regulatory agencies.

8. Keep an accurate accounting of all (i) design costs associated with the preparation of plans and specifications for PROJECT, in conformance with DISTRICT approved CITY's engineering design cost proposal and schedule; (ii) costs associated with obtaining environmental permits, and (iii) costs associated with survey and mapping. Include this accounting when invoicing DISTRICT for final payment of DESIGN CONTRIBUTION, as provided herein.

9. After preparing preliminary PROJECT design, provide DISTRICT an opportunity to review and approve the geotechnical report.

10. Issue an invoice to DISTRICT (Attention: Chief of Planning Division) for remainder of DESIGN CONTRIBUTION, following signing of IMPROVEMENT PLANS by all parties. DESIGN CONTRIBUTION shall not exceed the total amount of One Million Five Hundred Thousand Dollars (\$1,500,000).

11. Implement, or cause to be implemented, all environmental mitigation required in association with the construction, operation and maintenance of PROJECT.

12. At its sole cost and expense, prepare, or cause to be prepared, all rights of way and easements documents, legal and plats, aerial topography and survey control, including any requests for waivers and variances from policies ("RIGHTS OF WAY"), deemed necessary for the construction, operation and maintenance of LINE E STAGE 5, and submit to DISTRICT (Attention: Real Estate Services) for its review and approval.

13. At its sole cost and expense, obtain all necessary permits, licenses, agreements, approvals, rights of way, rights of entry and temporary construction easements as may be needed to inspect, construct, operate and maintain PROJECT.

14. Comply with all mitigation measures including all applicable provisions of CEQA, the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP") and any CITY established conditions of approval for PROJECT.

15. Prior to advertising PROJECT 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, the REGULATORY PERMITS or RIGHTS OF WAY documents unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain LINE E STAGE 5.

16. Be responsible for any and all additional regulatory, mitigation and/or litigation costs, and/or mitigation measures to PROJECT resulting from this Agreement and/or Permits.

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

18. 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 LINE E STAGE 5 as determined by DISTRICT, or (ii) include any stipulations that would result in additional mitigation obligations being placed upon DISTRICT for maintenance operations within LINE E STAGE 5 right of way.

19. Ensure DISTRICT is provided, at the time of providing IMPROVEMENT PLANS as set forth in Section I.6., and prior to soliciting of bids for the construction of PROJECT pursuant to Section I.21., with duly executed easement(s) to the public for flood control and drainage purposes, including ingress and egress, or grant deed(s) of fee title where appropriate,

for the rights of way deemed necessary by DISTRICT for the construction, inspection, operation and maintenance of LINE E STAGE 5. The easement(s) or grant deed(s) shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the easement(s) or grant deed(s).

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

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

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

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

24. Issue an invoice to DISTRICT (Attention: Chief of Planning Division) for the payment of CONSTRUCTION CONTRIBUTION at the time of providing written notice of the award of a construction contract as set forth in Section I.23, subject to and provided that DISTRICT TOTAL CONTRIBUTION shall not exceed the total amount of Four Million Three

Hundred Thousand Dollars (\$4,300,000). Furthermore, CITY shall be responsible to pay any amounts in excess of DISTRICT TOTAL CONTRIBUTION.

25. Within thirty (30) days of awarding PROJECT construction contract, pay Riverside Conservation Agency ("RCA"), the costs associated with the mitigation fee per the 2004 Implementing Agreement for the MSHCP.

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

27. 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.

28. Furnish DISTRICT, at the time of providing written notice of intent to start construction as set forth in Section I.27, 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.

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

30. Inspect or caused to be inspected PROJECT construction, and pay all costs associated therewith. In the event CITY wishes to utilize DISTRICT's construction inspection, materials testing and construction survey services, CITY shall provide DISTRICT with a written request (Attn: Special Projects) for such services. However, CITY will continue to serve as construction contract manager.

31. Perform all survey and construction staking work as needed for PROJECT as specified herein.

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

33. 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 PROJECT.

34. 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.

35. 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. Failure to do so shall be deemed a material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at its sole 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 LINE E STAGE 5 due, either in whole or in part, to said breach of this Agreement.

36. 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 "B" of this Agreement.

37. 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.

38. Require its construction contractor(s) to furnish DISTRICT (Attention: Contract 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.

39 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 LINE E STAGE 5.

40. Accept ownership and sole responsibility for the operation and maintenance of PROJECT upon (i) CITY inspection of PROJECT in accordance with Section I.30., and (ii) CITY acceptance of PROJECT construction as being complete.

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

42. Upon completion of PROJECT construction but prior to CITY's acceptance of LINE E STAGE 5 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".

43. Upon completion of PROJECT construction but prior to DISTRICT acceptance of LINE E STAGE 5 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 LINE E STAGE 5.

44. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of LINE E STAGE 5 for ownership, operation and maintenance, provide or cause its construction manager to provide DISTRICT with appropriate engineering documentation necessary to establish that LINE E STAGE 5 was constructed in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

45. Accept all liability whatsoever associated with the ownership, operation and maintenance of LINE E STAGE 5 until such time as LINE E STAGE 5 is formally accepted by DISTRICT for ownership, operation and maintenance.

46. 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.

SECTION II

DISTRICT shall:

1. Accept the above recitals as true and correct and incorporated into the terms of this Agreement.
2. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
3. Upon execution of this Agreement, and within thirty (30) days after receipt of CITY's invoice, pay fifty percent (50%) of the DESIGN CONTRIBUTION, as set forth in Section I.4., provided that DESIGN CONTRIBUTION shall not exceed the total amount of One Million Five Hundred Thousand Dollars (\$1,500,000). Any unexpended DESIGN CONTRIBUTION may be used towards CONSTRUCTION CONTRIBUTION.
4. At its sole cost and expense, review, comment and make a determination on CITY's PROJECT engineering design cost proposal and associated design schedule.
5. At its sole cost and expense, review, comment and make a determination on CITY's geotechnical report prior to CITY commencing PROJECT design.
6. At its sole cost and expense, review, comment and approve IMPROVEMENT PLANS prior to CITY's advertising PROJECT for construction bids.
7. Pay CITY, within thirty (30) days after receipt of CITY's invoice, for remainder of DESIGN CONTRIBUTION, as set forth in Sections I.10, provided that DESIGN CONTRIBUTION shall not exceed the total amount of One Million Five Hundred Thousand Dollars (\$1,500,000). Any unexpended DESIGN CONTRIBUTION may be used towards CONSTRUCTION CONTRIBUTION.

8. At its sole cost and expense, review, comment and make a determination on, as appropriate, all necessary REGULATORY PERMITS and permit applications prior to CITY advertising PROJECT for bids. DISTRICT may withhold approval of IMPROVEMENT PLANS when, in the sole judgment of DISTRICT's General Manager – Chief Engineer, the REGULATORY PERMITS unreasonably constrains, inhibits or impairs DISTRICT's ability to operate and maintain LINE E STAGE 5.

9. At its sole cost and expense, review, comment and approve, as appropriate, all RIGHTS OF WAY necessary for the construction and operation and maintenance of PROJECT pursuant to Section I.15.

10. Record or cause to be recorded, the easement(s) or grant deed(s) provided by CITY pursuant to Section I.19.

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

12. Pay CITY, within thirty (30) days after receipt of CITY's invoice for CONSTRUCTION CONTRIBUTION as set forth in Section I.24, subject to and provided that DISTRICT TOTAL CONTRIBUTION shall not exceed the total amount of Four Million Three Hundred Thousand Dollars (\$4,300,000). Furthermore, CITY shall be responsible to pay any amounts in excess of DISTRICT TOTAL CONTRIBUTION.

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

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

15. Upon receipt of CITY's written notice that PROJECT construction is substantially complete, conduct a final inspection of LINE E STAGE 5.

16. Accept ownership and sole responsibility for the operation and maintenance of LINE E STAGE 5 from CITY upon (i) recordation of all conveyance documents described in Section I.19, (ii) DISTRICT acceptance of LINE E STAGE 5 construction as being complete, (iii) DISTRICT receipt of all necessary rights of way as described in Section I.43, (iv) DISTRICT receipt of all necessary engineering documentation as described in Section I.44, (v) LINE E STAGE 5 is fully functioning as a flood control drainage system as solely determined by DISTRICT, and (vi) DISTRICT's sole determination that LINE E STAGE 5 is in a satisfactorily maintained condition.

SECTION III

It is further mutually agreed:

1. DISTRICT TOTAL CONTRIBUTION shall not exceed a total sum of Four Million Three Hundred Thousand Dollars (\$4,300,000) and shall be used by CITY solely for the purpose to design and construct PROJECT. Furthermore, CITY shall be responsible to pay any amounts in excess of DISTRICT TOTAL CONTRIBUTION, as set forth herein.

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

3. All work involved with PROJECT shall be inspected by DISTRICT and CITY, and shall not be deemed complete until DISTRICT and CITY mutually agree in writing that construction is completed in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

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

5. CITY shall Indemnify, defend and hold harmless and require its construction contractor(s) to indemnify, defend and hold harmless 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, 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 or 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 or 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 or CITY's construction contractor(s) indemnification to Indemnitees as set forth herein.

CITY or 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 CITY's construction contractor(s) from indemnifying the Indemnitees to the fullest extent allowed by law.

6. DISTRICT shall indemnify, defend, save and hold harmless CITY (including its officers, employees, agents, representatives, independent contractors, and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to DISTRICT's (including its officers, Board of Supervisors, elected and

appointed officials, employees, agents, representatives, independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.

7. 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.

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

9. 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: Special Project Section

CITY OF PERRIS
101 North D Street
Perris, CA 92571
Attn: Stuart McKibbin

10. 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.

11. 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.

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

13. 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 the 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.

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

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

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

17. 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 and written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the parties hereto.

18. 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.

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

April 13, 2021

(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
Chair, Riverside County Flood
Control and Water Conservation District
Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

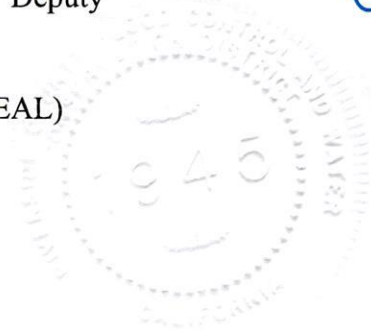
GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

By Synthia M. Gunzel
SYNTHIA M. GUNZEL
Chief Deputy County Counsel

By Michelle Russo
Deputy

(SEAL)




Cooperative Agreement: City of Perris
Perris Valley MDP Line E, Stage 5
Project No. 4-0-00488
10/15/2020
AMR:blm

CITY OF PERRIS

By 
CLARA MIRAMONTES
City Manager *Interim*

APPROVAL AS TO FORM:

By 
ERIC L. DUNN
City Attorney

ATTEST:

By 
NANCY A. SALAZAR
City Clerk

(SEAL)

Cooperative Agreement: City of Perris
Perris Valley MDP Line E, Stage 5
Project No. 4-0-00488
10/15/2020
AMR:blm



RIVERSIDE COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT

Perris Valley MDP Line E, Stage 5

Supervisorial District 5

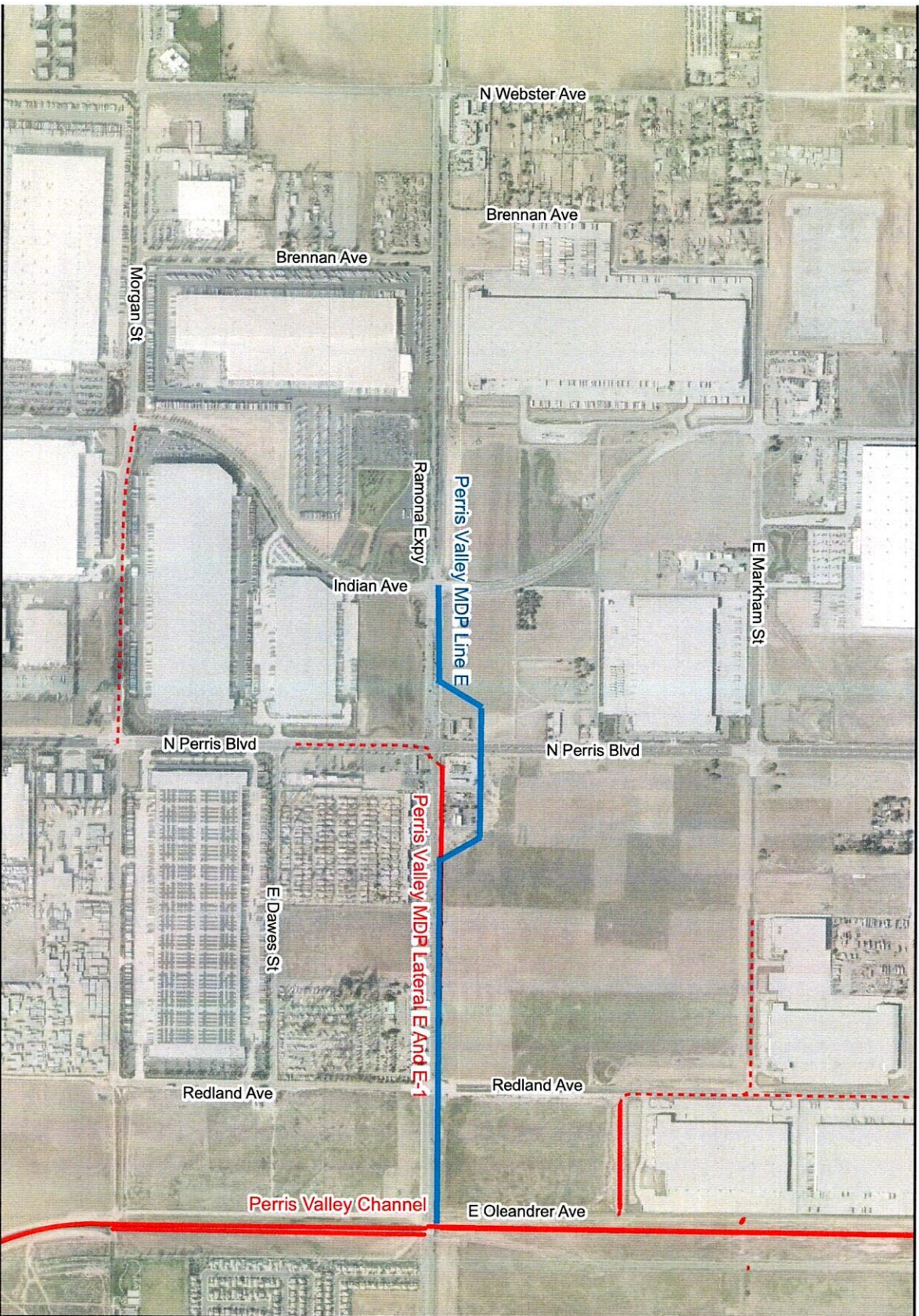


EXHIBIT A

- Legend**
- Perris Valley MDP Line E, Stage 5
 - Existing Above Ground Facility
 - - - Existing Underground Facility

EXHIBIT B

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 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.

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 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.
- 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 E, Stage 5

Project No. 4-0-00488

Miscellaneous No. 197

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