

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



ITEM: 11.2  
(ID # 17470)

**MEETING DATE:**

Tuesday, November 09, 2021

**FROM :** FLOOD CONTROL DISTRICT:

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District, the County of Riverside and Seaton Perry, LLC for Perris Valley MDP – Lines E-10 and F, Stage 3 and Perris Valley – Seaton Avenue, Stage 1 (Plot Plan No. 180025), Project Nos. 4-0-00492 and 4-0-00550; Nothing Further is Required Under CEQA, District 1. [\$0] (Companion Item to MT Item No. 17491)

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

1. Find that nothing further is required under the California Environmental Quality Act (CEQA) because the Cooperative Agreement and acceptance of flood control facilities will not have a significant adverse effect on the environment, and that any potentially significant environmental effects have been adequately analyzed and mitigated in a Mitigated Negative Declaration for Plot Plan No. 180025 Seaton Tech Center, which was adopted and certified by the Lead Agency (County of Riverside) on July 13, 2020;
2. Approve the Cooperative Agreement between the Riverside County Flood Control and Water Conservation District (District), the County of Riverside (County) and Seaton Perry, LLC (Developer);

Continued on page 2

**ACTION:Policy**

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

10/20/2021

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Spiegel, seconded by Supervisor Washington 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: November 9, 2021  
xc: Flood, Trans.

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

(Companion Item 3.16)

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

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

3. Authorize the Chair of the District's Board of Supervisors to execute the Cooperative Agreement documents on behalf of the District;
4. Authorize the General Manager-Chief Engineer or designee to take all necessary steps to implement the Cooperative Agreement, including, but not limited to, negotiating, approving and executing and non-substantive amendments and any assignment and assumption associated with change of ownership or the property, subject to approval as to form by County Counsel; and
5. Direct the Clerk of the Board to return five (5) executed originals of the Cooperative Agreement to the District.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: N/A</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	N/A

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

**BACKGROUND:**

This Cooperative Agreement (Agreement) sets forth the terms and conditions by which certain flood control facilities required as a condition of approval for Plot Plan No. 180025 are to be constructed by Developer and inspected, operated and maintained by the District and County.

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 Perris Valley MDP Lines E-10 and F, Stage 3 and Perris Valley – Seaton Avenue, Stage 1.

Upon completion of construction, the District will assume ownership, operation and maintenance of:

- (i) Line E-10, ranging from sixty-inch (60") to forty-eight-inch (48") diameter underground storm drain and all associated features.
- (ii) Line E-11 (Seaton Avenue, Stage 1), ranging from fifty-four-inch (54") to forty-two-inch (42") diameter underground storm drain and all associated features.

County will assume ownership, operation and maintenance of:

- (i) Lateral E-10A, a twenty-four-inch (24") diameter underground storm drain and associated features.
- (ii) Lateral E-10B, a twenty-four-inch (24") diameter underground storm drain and associated features.
- (iii) Lateral E-11A, a thirty-inch (30") diameter underground storm drain and associated features.
- (iv) Lateral E-11B, a forty-two-inch (42") diameter underground storm drain and associated features.



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- (v) Lateral E-11C, a forty-two-inch (42") diameter underground storm drain and associated features.
- (vi) Lateral E-11D, a forty-two-inch (42") diameter underground storm drain and associated features.
- (vii) Lateral E-10E, a forty-two-inch (42") diameter underground storm drain and associated features.

**Environmental Findings**

Pursuant to Section 15096 of the California Environmental Quality Act (CEQA) Guidelines, the District has considered the Initial Study/Mitigated Negative Declaration prepared for Plot Plan No. 180025 for the Seaton Tech Center. The District, in its limited capacity as a Responsible Agency, finds that the inspection, acceptance, operation and maintenance as described in the Agreement are adequately addressed by the Initial Study/Mitigated Negative Declaration. The inspection, acceptance, operation and maintenance of the proposed facilities by the District and the County will not have a significant impact on the environment. Therefore, no further analysis is required under CEQA.

**Impact on Residents and Businesses**

As noted above, construction of these drainage improvements is a requirement for the development of Plot Plan No. 180025. The key beneficiaries are the future owners of the property.

**Additional Fiscal Information**

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs of the District maintained storm drain facilities will accrue to the District.

**ATTACHMENTS:**

- 1. Vicinity Map
- 2. Cooperative Agreement

BB:blm  
P8/240677



Jason Farin, Principal Management Analyst

11/3/2021



Gregory L. Priamos, Director County Counsel

10/21/2021

COOPERATIVE AGREEMENT

Perris Valley MDP – Lines E-10 and F, Stage 3  
Perris Valley – Seaton Avenue, Stage 1  
Project Nos. 4-0-00492 and 4-0-00550  
Plot Plan No. 180025

This Cooperative Agreement ("Agreement"), dated as of NOV 09 2021,

is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), the County of Riverside, a political subdivision of the State of California, on behalf of its Transportation Department ("COUNTY"), and Seaton Perry LLC, a Delaware limited liability company ("DEVELOPER"). DISTRICT, COUNTY and DEVELOPER are individually referred to herein as "Party or Parties" and collectively referred to herein as "Parties". The Parties hereto hereby agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located within the County of Riverside. The legal description of Plot Plan No. 180025 is provided in Exhibit "A", attached hereto and made a part hereof; and

B. DEVELOPER has submitted for approval Plot Plan No. 180025, located in an unincorporated area of western Riverside County. Pursuant to the conditions of approval for Plot Plan No. 180025, DEVELOPER must construct certain flood control facilities to provide flood protection and drainage for DEVELOPER's planned development; and

C. The required flood control facilities and drainage improvements, as shown on DISTRICT's Drawing No. 4-1165, are shown in concept on Exhibit "B", attached hereto and made a part hereof, and includes construction of the following:

- i. Approximately 1,025 lineal feet of sixty-inch (60") and forth-eight-inch (48") diameter underground storm drain within Perry Street, as shown on the plans as Lateral E-10 and as shown in concept in "blue"



on Exhibit "B", attached hereto and made a part hereof, hereinafter called "LINE E-10 ". At the downstream terminus, LINE E-10 will extend from existing Lines E-10 and F, Stage 2, as shown on DISTRICT Drawing No. 4-0638. At the upstream terminus LINE E-10 will terminate with a concrete bulkhead, and

- ii. Approximately 450 lineal feet of fifty-four-inch (54") and forty-two-inch (42") diameter underground storm drain within Seaton Avenue, as shown on the plans as Lateral E-11 and as shown in concept in "red" on Exhibit "B", attached hereto and made a part hereof, hereinafter called "SEATON AVENUE, STAGE 1 ", and
- iii. All safety devices requested by DISTRICT staff during the course of project construction and during any final field inspections, including, but not limited to, concrete pads, slope protection barriers, signage and fencing ("SAFETY DEVICES"). SAFETY DEVICES shall be purchased and installed by DEVELOPER and are subject to DISTRICT's inspection and approval.

D. Together, LINE E-10, SEATON AVENUE, STAGE 1, and SAFETY DEVICES are hereinafter called "DISTRICT FACILITIES"; and

E. Associated with the construction of DISTRICT FACILITIES, the project includes the construction of:

- (i) Approximately 35 lineal feet of twenty-four-inch (24") diameter lateral underground storm drain, as shown on the plans as Lateral E-10A, and associated junction structures and concrete bulkhead, hereinafter called "LATERAL E-10A", and

- (ii) Approximately 27 lineal feet of twenty-four-inch (24") diameter lateral underground storm drain, as shown on the plans as Lateral E-10B, and associated junction structures, connector pipes, connector pipe screens, and catch basin, hereinafter called "LATERAL E-10B", and
- (iii) Approximately 25 lineal feet of thirty-inch (30") diameter lateral underground storm drain as shown on the plans as Lateral E-11A and associated junction structures, connector pipes, connector pipe screens, and catch basin, hereinafter called "LATERAL E-11A", and
- (iv) Approximately 8 lineal feet of forty-two-inch (42") diameter lateral underground storm drain as shown on the plans as Lateral E-11B and associated junction structures and concrete bulkhead, hereinafter called "LATERAL E-11B", and
- (v) Approximately 25 lineal feet of forty-two-inch (42") diameter lateral underground storm drain as shown on the plans as Lateral E-11C and associated junction structures, connector pipes, connector pipe screens, and catch basin, hereinafter called "LATERAL E-11C", and
- (vi) Approximately 8 lineal feet of forty-two-inch (42") diameter lateral underground storm drain as shown on the plans as Lateral E-11D and associated junction structures and concrete bulkhead, hereinafter called "LATERAL E-11D", and



- (vii) Approximately 25 lineal feet of forty-two-inch (42") diameter lateral underground storm drain as shown on the plans as Lateral E-11E and associated junction structures, connector pipes, connector pipe screens, and catch basin, hereinafter called "LATERAL E-11E", and

F. Together, LATERAL E-10A, LATERAL E-10B, LATERAL E-11A, LATERAL E-11B, LATERAL E-11C, LATERAL E-11D, and LATERAL E-11E are hereinafter called "COUNTY FACILITIES"; and

G. Together, DISTRICT FACILITIES, and COUNTY FACILITIES are hereinafter called "PROJECT"; and

H. DEVELOPER and COUNTY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES; and

I. DEVELOPER and DISTRICT desire COUNTY to accept ownership and responsibility for the operation and maintenance of COUNTY FACILITIES; and

J. DISTRICT is willing to accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES provided DEVELOPER (a) complies with this Agreement; (b) constructs PROJECT in accordance with DISTRICT and COUNTY approved plans and specifications; and (c) accepts ownership and responsibility for the operation and maintenance of PROJECT following completion of PROJECT construction until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, and COUNTY accepts ownership and responsibility for the operation and maintenance of COUNTY FACILITIES, as set forth herein; and

K. COUNTY is willing to (i) accept and hold faithful performance and payment bonds submitted by DEVELOPER on behalf of DISTRICT for DISTRICT

FACILITIES; (ii) grant DISTRICT the right to inspect, operate and maintain DISTRICT FACILITIES within COUNTY rights of way; and (iii) accept ownership and responsibility for the operation and maintenance of COUNTY FACILITIES, provided PROJECT is constructed in accordance with plans and specifications approved by DISTRICT and COUNTY.

NOW, THEREFORE, in consideration of the preceding recitals, which are true and correct and incorporated into the term of this Agreement and the mutual covenants hereinafter contained, the Parties hereto mutually agree as follows:

#### SECTION I

DEVELOPER shall:

1. Prepare PROJECT plans and specifications, hereinafter called "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and COUNTY standards, and submit to DISTRICT and COUNTY for their respective review and approval.
2. Continue to pay DISTRICT, within thirty (30) calendar days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT's costs associated with i) the review and approval of IMPROVEMENT PLANS; ii) the review and approval of rights of way and conveyance documents; iii) the processing and administration of this Agreement; and iv) construction inspection costs. Additionally, DEVELOPER shall pay COUNTY, within thirty (30) calendar days after receipt of periodic billings from COUNTY, any and all such amounts as are deemed reasonably necessary by COUNTY to cover COUNTY's costs associated with i) the review and approval of IMPROVEMENT PLANS; ii) the processing and administration of this Agreement; and iii) construction inspection costs.
3. Deposit with DISTRICT (Attention: Business Office – Accounts Receivable) and notify Contract Services Section, upon DISTRICT approval of



IMPROVEMENT PLANS, the estimated cost of providing construction inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto, based upon the bonded value of DISTRICT FACILITIES.

4. Grant DISTRICT and COUNTY, by execution of this Agreement, the right to enter upon DEVELOPER's property where necessary and convenient for the purpose of gaining access to and performing inspection services for the construction of PROJECT, as set forth herein.

5. Prior to commencing construction, secure at its sole cost and expense, all necessary licenses, agreements, permits, rights of entry as may be needed for the construction, inspection, operation and maintenance of PROJECT. DEVELOPER shall furnish DISTRICT (Attention: Real Estate Services Section) and COUNTY, upon DISTRICT approval of IMPROVEMENT PLANS, or not less than twenty (20) days prior to recordation of the final map for Plot Plan No. 180025 or any phase thereof, whichever occurs first, with sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits and rights of entry, as determined and approved by DISTRICT and COUNTY.

6. Prior to commencing construction, obtain and furnish DISTRICT (Attention: Plan Check Section) and COUNTY with copies of all permits, approvals or agreements required by any federal, state or local resource and/or regulatory agency for the construction, operation and maintenance of PROJECT. Such documents include, but are not limited to, those issued by the U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California State Department of Fish and Wildlife, State Water Resources Control Board and Western Riverside County Regional Conservation Authority ("REGULATORY PERMITS").

7. Provide COUNTY, upon execution of this Agreement or not less than twenty (20) calendar days prior to recordation of the final map for Plot Plan No. 180025 or any phase thereof, whichever occurs first, with faithful performance and payment bonds in accordance with COUNTY's Ordinance No. 460, including any amendments thereto, for the estimated cost of construction of (i) DISTRICT FACILITIES, as determined by DISTRICT; and (ii) COUNTY FACILITIES, as determined by COUNTY. The surety, amount and form of the bonds shall be subject to approval of DISTRICT (Attention: Contract Services Section) and COUNTY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT and COUNTY FACILITIES are accepted by COUNTY as complete.

8. Notify DISTRICT (Attention: Construction Management Section) and COUNTY, in writing after receiving DISTRICT's plan check, and administrative clearance for PROJECT as set forth in Sections I.5. through I.15., with twenty (20) calendar days written notice of intent to start of construction of PROJECT, and include PROJECT's Geotechnical Firm, Concrete Lab/Test Firm, D-Load test forms, Trench Shoring/False Work Calculations and Concrete Mix designs for DISTRICT's review and approval. Construction shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT has issued to DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction of PROJECT.

9. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT and COUNTY's approval of IMPROVEMENT PLANS, with a complete list of all contractors and subcontractors to be performing work on PROJECT, including the corresponding license number and license classification of each. At such time, DEVELOPER shall further identify in writing its designated superintendent for PROJECT construction.

10. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT and COUNTY's approval of IMPROVEMENT PLANS, with a construction schedule



which shall show the order and dates in which DEVELOPER or DEVELOPER's contractor(s) proposes to carry out the various parts of work, including estimated start and completion dates. As construction of PROJECT progresses, DEVELOPER shall update said construction schedule as requested by DISTRICT or COUNTY.

11. Furnish DISTRICT (Attention: Plan Check Section) and COUNTY each with a set of final mylar PROJECT plans and assign their ownership to DISTRICT and COUNTY, respectively, prior to the start on any portion of PROJECT construction.

12. Not permit any change to or modification of DISTRICT and COUNTY approved IMPROVEMENT PLANS without the prior written permission and consent of DISTRICT and COUNTY.

13. Comply with all Cal/OSHA safety regulations, including, but not limited to, regulations concerning confined space and maintain a safe working environment for DEVELOPER, DISTRICT and COUNTY employees on the site.

14. Furnish DISTRICT (Attention: Contract Services Section), upon DISTRICT and COUNTY's approval of IMPROVEMENT PLANS and prior to commencing construction of PROJECT, with a confined space entry 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 reviewed and approved by DISTRICT prior to the issuance of a Notice to Proceed, which shall be given by DISTRICT to DEVELOPER upon DISTRICT's and COUNTY's approval.

15. DEVELOPER shall not commence construction until DISTRICT (Attention: Contract Services Section) and COUNTY have been furnished with 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. Upon DISTRICT and COUNTY's approval of IMPROVEMENT PLANS, 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", attached hereto and made a part hereof. Failure to maintain the insurance required by this paragraph 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 DEVELOPER that DISTRICT is unable to perform its obligations hereunder, nor to accept responsibility for ownership, operation and maintenance of DISTRICT FACILITIES, either in whole or in part, for said breach of this Agreement.

16. Construct or cause to be constructed PROJECT at DEVELOPER's sole cost and expense in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.

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

18. Accept ownership, sole responsibility and all liability whatsoever for the operation and maintenance of PROJECT until such time as: (i) DISTRICT accepts ownership and responsibility for operation and maintenance of DISTRICT FACILITIES; and (ii) COUNTY accepts ownership and responsibility for operation and maintenance of COUNTY FACILITIES.

19. Upon completion of PROJECT construction but prior to DISTRICT 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 (Attention: Construction Management Section) with (i) soil compaction report(s) – stamped and wet signed by the geotechnical engineer; (ii) concrete testing report(s) – stamped and wet signed by the civil engineer of record; and (iii) a redlined "record drawings" copy of PROJECT plans. After DISTRICT approval of the redlined "record drawings", DEVELOPER's engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT's original mylars at DISTRICT's office; after which, the engineer shall review, stamp and sign the original IMPROVEMENT PLANS as "record drawings".

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

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

## SECTION II

DISTRICT shall:

1. Review IMPROVEMENT PLANS and approve when DISTRICT has determined that such plans meet DISTRICT standards and are found acceptable to DISTRICT prior to the start of PROJECT construction.

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

3. Upon execution of this Agreement, record or cause to be recorded a copy of this Agreement in the Official Records of the County of Riverside Recorder.
4. Inspect construction of DISTRICT FACILITIES.
5. Keep an accurate accounting and submit periodic invoices to DEVELOPER of all DISTRICT costs associated with (i) the review and approval of IMPROVEMENT PLANS; and (ii) the processing and administration of this Agreement.
6. Keep an accurate accounting of all DISTRICT construction inspection costs and within forty-five (45) calendar days after DISTRICT acceptance of DISTRICT FACILITIES as being complete, submit a final cost statement to DEVELOPER. If the deposit, as set forth in Section I.3., exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.
7. Provide DEVELOPER with a reproducible duplicate copy of "record drawings" of IMPROVEMENT PLANS upon (i) DISTRICT acceptance of PROJECT construction as being complete; and (ii) DISTRICT receipt of stamped and signed "record drawing" of IMPROVEMENT PLANS as set forth in Section I.19.
8. 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.17.; (ii) DISTRICT acceptance of PROJECT construction as being complete; (iii) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans as set forth in Section I.19.; (iv) COUNTY acceptance of COUNTY FACILITIES for ownership, operation, and maintenance; (v) DISTRICT FACILITIES are fully functioning as a flood control drainage system as solely determined by DISTRICT; and (vi)



DISTRICT's sole determination that DISTRICT FACILITIES are in a satisfactorily maintained condition.

9. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, DISTRICT FACILITIES shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, subsequent to the inspection and in the sole discretion of DISTRICT, DISTRICT FACILITIES are not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

10. Provide COUNTY with a reproducible duplicate copy of "record drawings" of DISTRICT FACILITIES plans upon (i) DISTRICT acceptance of PROJECT construction as being complete; and (ii) DISTRICT receipt of stamped and signed "record drawings" of IMPROVEMENT PLANS as set forth in Section I.19.

### SECTION III

COUNTY shall:

1. Review and approve IMPROVEMENT PLANS prior to the start of PROJECT construction when COUNTY has determined that such plans meet COUNTY standards.

2. Accept COUNTY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER, in accordance with Ordinance No. 460 of the COUNTY, including any amendments thereto, as set forth in Section I.7., and hold said bonds as provided herein. The surety, amount and form of the bonds shall be subject to approval of DISTRICT (Attention: Contract Services Section) and COUNTY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by DISTRICT and COUNTY FACILITIES are accepted by COUNTY as complete.

3. Request DEVELOPER update the construction schedule, as deemed necessary.
4. Inspect PROJECT construction.
5. Grant DISTRICT, by execution of this Agreement, the right to construct, inspect, operate and maintain DISTRICT FACILITIES within COUNTY rights of way.
6. Accept ownership and sole responsibility for the operation and maintenance of COUNTY FACILITIES upon (i) DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance; (ii) COUNTY's final inspection of COUNTY FACILITIES; and (iii) COUNTY's sole determination that COUNTY FACILITIES are in a satisfactorily maintained condition.
7. Upon DISTRICT and COUNTY acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within COUNTY rights of way which must be performed at such time(s) that the finished grade along and above the underground portions of DISTRICT FACILITIES are improved, repaired, replaced or changed. It being further understood and agreed that any such adjustments shall be performed by COUNTY at no cost to DISTRICT.

#### SECTION IV

It is further mutually agreed:

1. All construction work involved with PROJECT shall be inspected by DISTRICT and COUNTY but shall not be deemed complete until DISTRICT and COUNTY mutually agree in writing that construction is completed in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.
2. COUNTY and DEVELOPER personnel may observe and inspect all work being done on PROJECT but shall provide any comments to DISTRICT personnel who shall be



solely responsible for all quality control communications with DEVELOPER's contractor(s) during the construction of PROJECT.

3. If DEVELOPER fails to commence construction of PROJECT within twelve (12) consecutive months after execution of this Agreement, it is expressly understood that since time is of the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon time shall constitute authority for DISTRICT to perform the remaining work for the PROJECT and require DEVELOPER's surety to pay to COUNTY the penal sum of any and all bonds. In which case, COUNTY shall subsequently reimburse DISTRICT, from funds paid by DEVELOPER's surety, for any DISTRICT costs incurred to perform the remaining work for the PROJECT.

4. If DEVELOPER fails to commence construction of PROJECT within nine (9) months after execution of this Agreement, then DISTRICT reserves the right to withhold issuance of the Notice to Proceed pending a review of the existing site conditions as they exist at the time DEVELOPER provides written notification to DISTRICT of the start of construction as set forth in Section I.8. In the event of a change in the existing site conditions that materially affects PROJECT function or DISTRICT's ability to operate and maintain DISTRICT FACILITIES, DISTRICT may require DEVELOPER to modify IMPROVEMENT PLANS as deemed necessary by DISTRICT. In the event of a change in the existing site conditions that materially affects PROJECT function or COUNTY's ability to operate and maintain COUNTY FACILITIES, COUNTY may require DEVELOPER to modify IMPROVEMENT PLANS as deemed necessary by COUNTY.

5. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed within twenty (20) calendar days of receipt of DEVELOPER's complete written notice as set forth

in Section 1.8.; however, DISTRICT's construction inspection staff is limited and, therefore, the issuance of a Notice to Proceed is subject to staff availability.

6. In the event DEVELOPER wishes to expedite issuance of a Notice to Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at DEVELOPER's sole cost and expense. DEVELOPER shall furnish appropriate documentation of the individual's credentials and experience to DISTRICT for review and, if appropriate, approval. DISTRICT shall review the individual's qualifications and experience, upon approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized to act on DISTRICT's behalf on all DISTRICT FACILITIES construction and quality control matters. If DEVELOPER's initial construction inspection deposit furnished pursuant to Section 1.3. exceeds Ten Thousand Dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to eighty percent (80%) of DEVELOPER's initial inspection deposit within forty-five (45) calendar days of DISTRICT's approval of DEPUTY INSPECTOR; however, a minimum balance of Ten Thousand Dollars (\$10,000) shall be retained on account.

7. PROJECT construction work shall be on a five (5) day, forty (40) hour work week with no work on Saturdays, Sundays or DISTRICT or COUNTY designated legal holidays, unless otherwise approved in writing by DISTRICT and COUNTY. If DEVELOPER feels it is necessary to work more than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written request for permission from DISTRICT and COUNTY to work the additional hours. The request shall be submitted to DISTRICT and COUNTY at least seventy-two (72) hours prior to the requested additional work hours and state the reasons for the overtime and the specific time frames required. The decision of granting permission for overtime work shall be made by DISTRICT and COUNTY at their sole discretion and shall be final. If permission is granted by DISTRICT and COUNTY, DEVELOPER will be charged the cost



incurred at the overtime rates for additional inspection time required in connection with the overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments thereto, of the County of Riverside.

8. DEVELOPER shall indemnify and hold harmless DISTRICT and COUNTY (including each of their 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 services of DEVELOPER, 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 DEVELOPER, its officers, employees, subcontractors, agents or representatives from this Agreement. DEVELOPER 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.

9. With respect to any action or claim subject to indemnification herein by DEVELOPER, DEVELOPER 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 COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER's indemnification to Indemnitees as set forth herein.

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

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

12. 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 DEVELOPER from indemnifying the Indemnitees to the fullest extent allowed by law.

13. DEVELOPER for itself, its successors and assigns hereby releases DISTRICT and COUNTY (including each of their Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives) from any and all claims, demands, actions or suits of any kind arising out of any liability, known or unknown, present or future, including but not limited to any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing contained herein shall constitute a release by DISTRICT or COUNTY of DEVELOPER their officers, agents and employees from any and all claims, demands, actions or suits of any kind arising out of any liability, known or unknown, present or future, for the negligent maintenance of PROJECT by DEVELOPER after the acceptance of PROJECT by DISTRICT or COUNTY.

14. Any waiver by any Party hereto 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 any Party hereto 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 such Party from enforcement hereof.

15. 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:

To DISTRICT: RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
1995 Market Street  
Riverside, CA 92501  
Attn: Contracts Services Section

To COUNTY: COUNTY OF RIVERSIDE  
4080 Lemon Street, 8<sup>th</sup> Floor  
Riverside, CA 92501  
Attn: Transportation Department  
Plan Check Section

To DEVELOPER: SEATON PERRY, LLC  
18W140 Butterfield Road, Suite 750  
Oakbrook Terrace, IL 60181  
Attn: Anthony Cincinelli

16. This Agreement is to be construed in accordance with the laws of the State of California. If any provision of 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 and effect without being impaired or invalidated in any way.

17. 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.

18. 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 importance or significance. Any

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

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

20. No Party shall assign this Agreement without the written consent of the all other Parties. Any attempt to delegate or assign any interest herein without written consent of the all other Parties shall be deemed void and of no effect. In the event DEVELOPER sells Plot Plan No. 180025, DEVELOPER shall notify DISTRICT and COUNTY of any such transfer or assignment in writing no later than 30 calendar days from the date of the sale. DEVELOPER expressly understands and agrees that it shall remain liable with respect to any and all of the obligations and duties in this Agreement until DISTRICT, COUNTY, DEVELOPER and any new owner(s) of Plot Plan No. 180025 fully execute an assignment and assumption agreement that transfers all DEVELOPER's rights, duties or obligations hereunder to the new owner(s) of Plot Plan No. 180025.

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

22. 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.



23. 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

November 9, 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

Sarah K. Moore  
SARAH K. MOORE  
Deputy County Counsel

By

[Signature]  
Deputy

(SEAL)

[Signed in Counterpart]

Cooperative Agreement:  
Perris Valley MDP – Lines E-10 and F, Stage 3  
Perris Valley – Seaton Avenue, Stage 1  
Project Nos. 4-0-00492 and 4-0-00550  
Plot Plan No. 180025  
BB:blm  
09/30/21





## RECOMMENDED FOR APPROVAL:

By *Mark Lancaster*  
MARK LANCASTER  
Director of Transportation

## COUNTY OF RIVERSIDE

By *Karen S. Spiegel*  
KAREN SPIEGEL, Chair  
Board of Supervisors

## APPROVED AS TO FORM:

GREGORY P. PRIAMOS  
County Counsel

By *Steph Nelson*  
STEPHANIE K. NELSON  
Deputy County Counsel

## ATTEST:

KECIA HARPER  
Clerk of the Board

By *Michelle Rasso*  
Deputy

(SEAL)

## Cooperative Agreement:

Perris Valley MDP – Lines E-10 and F, Stage 3

Perris Valley – Seaton Avenue, Stage 1

Project Nos. 4-0-00492 and 4-0-00550

Plot Plan No. 180025

BB:blm

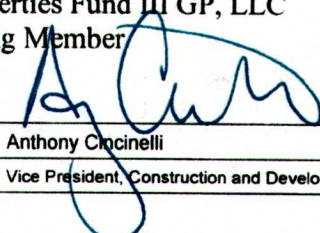
09/30/21



SEATON PERRY, LLC,  
a Delaware limited liability company

By: Molto Properties Fund III, LLC;  
its sole member

By: Molto Properties Fund III GP, LLC  
its Managing Member

By:   
Name: Anthony Cincinelli  
Title: Vice President, Construction and Development

(ATTACH NOTARY WITH CAPACITY STATEMENT)

Cooperative Agreement:  
Perris Valley MDP – Lines E-10 and F, Stage 3  
Perris Valley – Seaton Avenue, Stage 1  
Project Nos. 4-0-00492 and 4-0-00550  
Plot Plan No. 180025  
BB:blm  
09/30/21

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Illinois }  
County of DuPage }

On 10/08/2021 before me, Angela W Wuenschel, Notary Public,  
(here insert name and title of the officer)

personally appeared Anthony Cincinelli, Vice President Construction and Development,  
Seaton Perry LLC

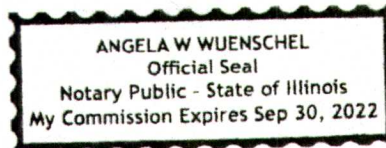
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s),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

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

WITNESS my hand and official seal.

Signature Angela W. Wuenschel

(Seal)





# **Exhibit A**

## **LEGAL DESCRIPTION**

THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

APN: 314-130-007-3

## **COOPERATIVE AGREEMENT**

Perris Valley MDP – Lines E-10 and F, Stage 3

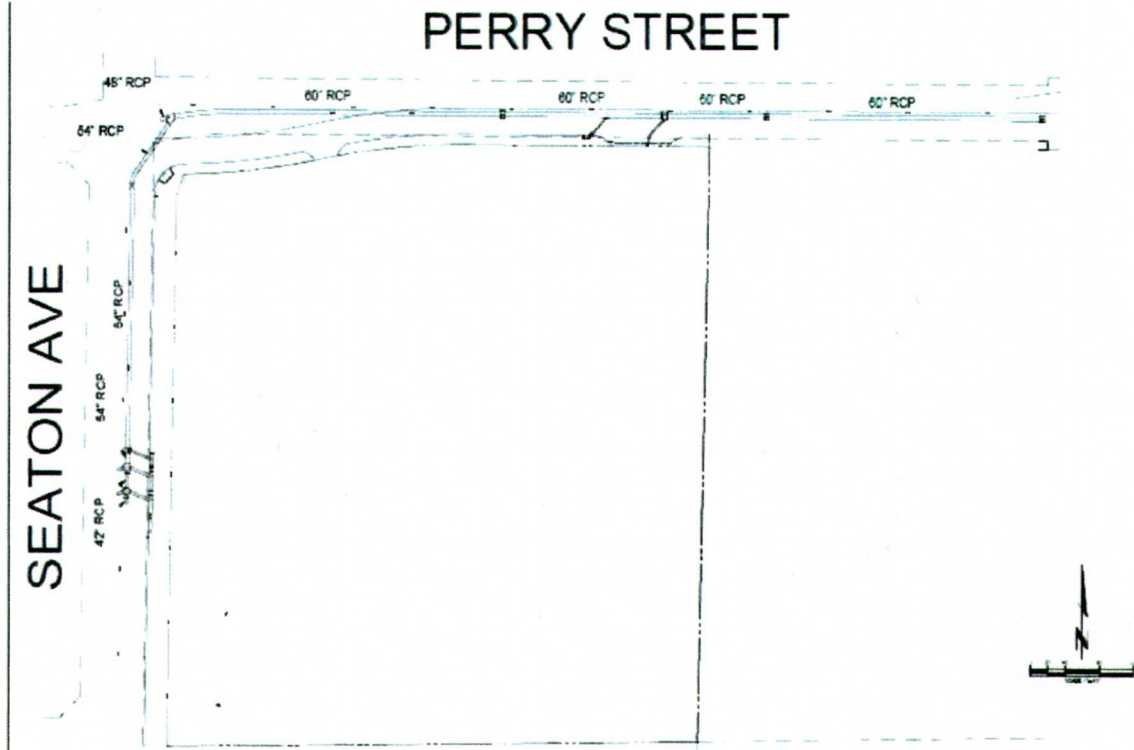
Perris Valley – Seaton Avenue, Stage 1

Project Nos. 4-0-00492 and 4-0-00550

Plot Plan No. 180025

1 of 1

## Exhibit B



### COOPERATIVE AGREEMENT

Perris Valley MDP – Lines E-10 and F, Stage 3

Perris Valley – Seaton Avenue, Stage 1

Project Nos. 4-0-00492 and 4-0-00550

Plot Plan No. 180025

1 of 1



# **Exhibit C**

## **DISTRICT's Insurance Requirements is as follows:**

Without limiting or diminishing DEVELOPER's obligation to indemnify or hold DISTRICT harmless, DEVELOPER shall procure and maintain or cause to be maintained, at its sole cost and expense, 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, the 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 Insureds.

A. **Workers' Compensation:**

If DEVELOPER has employees as defined by the State of California, DEVELOPER 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 DEVELOPER'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

## **Exhibit C**

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 vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then DEVELOPER shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 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 Insureds.

D. Professional Liability:

DEVELOPER shall cause any architect or engineer retained by DEVELOPER in connection with the performance of DEVELOPER'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. DEVELOPER 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 Trail Coverage); or 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, prior to, the inception of this Agreement; or 3) demonstrate through



## **Exhibit C**

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) shall continue for the term specified in the insurance policy as long as the law allows.

E. **Pollution and Asbestos Liability:**

DEVELOPER or its 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 DEVELOPER's or its construction contractor(s) liability for a third party bodily injury and property damage arising from pollution conditions caused by the DEVELOPER or its 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.

DEVELOPER or its 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



## **Exhibit C**

DISTRICT for review and approval. If DEVELOPER or its 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 DEVELOPER or its 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, DEVELOPER or its construction contractor(s) encounters materials on the site that is believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, DEVELOPER or its 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 DEVELOPER, 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 DEVELOPER.

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

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

## **Exhibit C**

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 DEVELOPER 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, DEVELOPER'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. DEVELOPER shall cause their insurance carrier(s) or its contractor's 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

## **Exhibit C**

DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If DEVELOPER insurance carrier(s) policies does not meet the minimum notice requirement found herein, DEVELOPER shall cause DEVELOPER'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 DEVELOPER'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



## **Exhibit C**

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 DEVELOPER has become inadequate.

- g. DEVELOPER 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. DEVELOPER 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.

