

**RESOLUTION NUMBER 5227**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, APPROVING A THREE PARTY TENDER AGREEMENT AND MUTUAL FINAL RELEASE BETWEEN THE CITY OF PERRIS, ARGONAUT INSURANCE COMPANY, AND MILLSTEN ENTERPRISES, INC, FOR CONSTRUCTION OF THE PERRIS VALLEY STORM DRAIN TRAIL PROJECT.**

**WHEREAS**, on December 15, 2016 the City of Perris, awarded a contract to Principles Contracting, Inc., as contractor, for the performance of certain work on a construction project known more commonly as the PERRIS VALLEY STORM DRAIN CHANNEL TRAIL PROJECT; and

**WHEREAS**, Argonaut Insurance Company, a corporation organized and existing under the laws of the State of Illinois, as surety, issued separate Performance and Labor and Material Payment Bonds, each bearing bond number CMGP0000205 on behalf of Principles; and

**WHEREAS**, Principles Contracting, Inc., as contractor, for the performance of certain work on the PERRIS VALLEY STORM DRAIN CHANNEL TRAIL construction project is in default under the Contract; and

**WHEREAS**, in an effort to mitigate damages by expediting the progress and completion of Principal's obligations under the Contract, the Surety has obtained a proposal from Millsten Enterprises, Inc., a corporation organized and existing under the laws of the State of California, for the completion of all work necessary under the bonded scope of work; and

**WHEREAS**, Argonaut Insurance Company desires to tender the services of Millsten Enterprises, Inc. to the City of Perris in full settlement and satisfaction of any and all obligations under all of its performance bonds, subject to the terms of the Agreement; and

**WHEREAS**, the Parties wish to clarify their rights and responsibilities pursuant to the performance of the scope of work as set forth in the agreement in accordance with the original terms and conditions of the Contract.

**NOW, THEREFORE**, based on the evidence presented, including the written staff report and oral testimony on this matter, the City Council does hereby find, determine and resolve as follows:

**Section 1.** The above recitals are all true and correct and are hereby adopted as findings.

**Section 2.** Based on the information contained within the staff report and the accompanying attachments, the City Council hereby approves this Resolution authorizing a Three Party Tender Agreement and Mutual Final Release between the City of Perris, Argonaut Insurance Company, and Millsten Enterprises, Inc, for construction of the Perris Valley Storm Drain Trail.

**Section 3.** The City Manager is authorized and directed to take such actions and execute such documents as may be necessary to implement and effect this Resolution on behalf of the City of Perris.

**Section 4.** The City Clerk shall certify to the passage and adoption hereof.

**ADOPTED, SIGNED and APPROVED** this 13<sup>th</sup> day of February, 2018.

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Michael M. Vargas, Mayor

ATTEST:

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Nancy Salazar, City Clerk

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss  
CITY OF PERRIS )

I, Nancy Salazar, City Clerk of the City of Perris, California, do hereby certify that the foregoing Resolution Number 5227 was duly and regularly adopted by the City of Perris City Council at a regular meeting thereof held on the 13th day of February, 2018, by the following called vote:

AYES: RABB, ROGERS, BURKE, CORONA, VARGAS  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: NONE

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Nancy Salazar, City Clerk