

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

815 B



FISCAL PROCEDURES APPROVED  
IVAN M. CHIANG, FINANCE DIRECTOR  
BY: *[Signature]* 1/14/2010  
IVAN M. CHIANG

FORM APPROVED COUNTY COUNSEL  
BY: *[Signature]* DATE  
NEAL R. KIPNIS

Dept't Recomm.:  Consent  Policy  
Per Exec. Ofc.:  Consent  Policy

**FROM:** General Manager-Chief Engineer

**SUBMITTAL DATE:**  
February 9, 2010

**SUBJECT:** Norco MDP Lateral NB-3  
Project No. 2-0-00161  
Cooperative Agreement

**RECOMMENDED MOTIONS:**

1. Approve the Cooperative Agreement between the District and the City of Norco; and authorize the Chairman to execute the Agreement documents on behalf of the District.
2. Authorize and direct the Auditor-Controller to adjust the appropriation and designated fund balance of the District's Zone 2 Construction and Maintenance Fund as requested below. The following budget adjustment is necessary to establish a Class 3 appropriation in the FY 2009-10 Board approved budget for the Zone 2 Construction and Maintenance Fund to facilitate the District contributing \$699,000.00 toward the construction of the storm drains addressed in the background section of this Form 11.

Continued on Page 2

FISCAL PROCEDURES APPROVED  
ROBERT E. BYRD, AUDITOR-CONTROLLER  
JPS:bj  
BY: *[Signature]* 1/28/10  
SUSANA GARCIA-BOCANEGRA

*[Signature]*  
**WARREN D. WILLIAMS**  
General Manager-Chief Engineer

<b>FINANCIAL DATA</b>	Current F.Y. District Cost:	\$699,000.00	In Current Year Budget:	No
	Current F.Y. County Cost:	N/A	Budget Adjustment:	Yes
	Annual Net District Cost:	N/A	For Fiscal Year:	2009-10

<b>SOURCE OF FUNDS:</b> 25120 947420 536200 Zone 2 Contribution to Non-County Agency	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

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

APPROVE  
BY: *[Signature]*  
Alex Gann

County Executive Office Signature

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

**SUBJECT:** Norco MDP Lateral NB-3  
Project No. 2-0-00161  
Cooperative Agreement

**SUBMITTAL DATE:** November 24, 2009  
**Page 2**

**BACKGROUND:**

The Agreement sets forth the terms and conditions by which the District will contribute funding to the City of Norco (City) for construction of a City maintained and operated storm drain that drains into the North Norco Channel Line NB. Upon completion of construction, the City will accept the storm drain for ownership, operation and maintenance.

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

**FINANCIAL:**

Increase in Appropriations

25120 947420 536200 - Contribution to Non-County Agency \$699,000

Expected Offset

25120 947420 320114 - DFB-Flood \$699,000

JPS:blj

COOPERATIVE AGREEMENT

Norco MDP Lateral NB-3

(Project No. 2-0-00161)

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4 The RIVERSIDE COUNTY FLOOD CONTROL AND WATER  
5 CONSERVATION DISTRICT, hereinafter called "DISTRICT", and the CITY of NORCO,  
6 hereinafter called "CITY", hereby agree as follows:

RECITALS

7  
8 A. CITY has prepared plans and specifications for the construction of Norco  
9 Master Drainage Plan (MDP) Lateral NB-3, hereinafter called "PROJECT"; and

10 B. PROJECT shall extend from its outlet into North Norco Channel Line NB  
11 at Corona Avenue in Norco, thence southerly approximately 800 lineal feet along Corona  
12 Avenue to Fourth Street, thence easterly approximately 800 lineal feet along Fourth Street to  
13 Temescal Avenue; and

14  
15 C. CITY plans to award a construction contract and construct PROJECT  
16 during Fiscal Year 2009-2010; and

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

19 E. DISTRICT has included the sum of six hundred ninety-nine thousand  
20 dollars (\$699,000.00) in its projected 5-Year capital improvement budget for the planning,  
21 design and construction PROJECT, and

22  
23 F. DISTRICT wishes to support CITY'S efforts to construct PROJECT and  
24 furnish a contribution, hereinafter called "DISTRICT CONTRIBUTION", in the amount of one  
25 hundred percent (100%) of the bid price for storm drain construction as received by CITY as set  
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1 forth herein. However, total DISTRICT CONTRIBUTION shall not exceed the sum of six  
2 hundred ninety-nine thousand dollars (\$699,000.00); and

3 G. The purpose of this Agreement is to memorialize the mutual understandings  
4 by and between DISTRICT and CITY with respect to the construction, inspection, ownership,  
5 operation and maintenance of PROJECT, and the payment of DISTRICT CONTRIBUTION.

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

9 SECTION I

10 CITY shall:

11 1. Prepare PROJECT plans and specifications, hereinafter called  
12 "IMPROVEMENT PLANS", at CITY'S sole cost and expense in accordance with DISTRICT  
13 and CITY standards, and submit to DISTRICT for review and approval.

14 2. Advertise PROJECT for bids upon DISTRICT approval of  
15 IMPROVEMENT PLANS.

16 3. Invoice DISTRICT for one hundred percent (100%) of lowest construction  
17 bid upon CITY'S award of a contract for PROJECT construction.

18 4. Construct PROJECT pursuant to a CITY awarded and administered public  
19 works contract.

20 5. Secure, at its sole cost and expense, all necessary rights of way, licenses,  
21 agreements, permits and rights of entry as may be needed for the construction, inspection,  
22 operation and maintenance of PROJECT.

23 6. Secure, at its sole cost and expense, all environmental clearances, permits,  
24 approvals or agreements required by any Federal or State resource and/or regulatory agency for  
25 the construction, operation and maintenance of PROJECT.  
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- 7. Supervise and inspect all aspects of PROJECT construction.
- 8. 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.
- 9. Upon completion of PROJECT construction and CITY'S acceptance thereof, be solely responsible for the ownership, operation and maintenance of PROJECT
- 10. Upon completion of PROJECT construction, provide DISTRICT with a copy of CITY'S Notice of Completion.
- 11. In the event that CITY'S actual construction costs are greater than the original bid amount, invoice DISTRICT and submit documentation for any such additional costs, in an amount not to exceed five percent (5%) of the original bid amount, subject to the overall limits of DISTRICT CONTRIBUTION.
- 12. Not permit any change to or modification of the IMPROVEMENT PLANS without the prior written permission and consent of DISTRICT.

SECTION II

DISTRICT shall:

- 1. Review and approve IMPROVEMENT PLANS prior to CITY advertising of construction contract.
- 2. Observe and inspect construction of PROJECT at DISTRICT'S sole cost and expense. However, DISTRICT shall provide any comments to CITY personnel who shall be solely responsible for all quality control communications with the CITY'S contractor(s) during the construction of PROJECT.
- 3. Pay DISTRICT CONTRIBUTION to CITY in the following manner: (i) pay one hundred percent (100%) of the lowest construction bid within thirty (30) days following

1 DISTRICT'S receipt of a copy of CITY'S invoice; and (ii) pay any actual construction costs  
2 incurred by CITY in excess of the awarded bid amount, such payment not to exceed more than  
3 five (5%) of the original bid amount, within thirty (30) days following DISTRICT'S receipt of  
4 CITY'S invoice and documentation of such additional costs. However, the total DISTRICT  
5 CONTRIBUTION paid shall not exceed the sum of six hundred ninety-nine thousand dollars  
6 (\$699,000.00).

7  
8 4. Bear no responsibility whatsoever for the construction, ownership,  
9 operation and maintenance of PROJECT.

10 SECTION III

11 It is further mutually agreed:

12 1. The DISTRICT CONTRIBUTION shall be used by CITY solely for the  
13 purpose of constructing project as set forth herein.

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

24 DISTRICT shall indemnify, defend, save and hold harmless CITY (including its officers,  
25 employees, agents, representatives, independent contractors, and subcontractors) from any  
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1 liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or  
2 in any way relating to DISTRICT'S (including its officers, Board of Supervisors, elected and  
3 appointed officials, employees, agents, representatives, independent contractors, and  
4 subcontractors) actual or alleged acts or omissions related to this Agreement, performance under  
5 this Agreement, or failure to comply with the requirements of this Agreement, including but not  
6 limited to: (a) property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d)  
7 any other element of any kind or nature whatsoever.  
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9           3. In the event of any arbitration, action or suit brought by either CITY or  
10 DISTRICT against the other party by reason of any breach on the part of the other party of any  
11 of the covenants and agreements set forth in this Agreement, or any other dispute between the  
12 DISTRICT and CITY concerning this Agreement, the prevailing party in any such action or  
13 dispute, by a final judgment or arbitration award, shall be entitled to have and recover from the  
14 other party all costs and expenses or claims, including but not limited to, attorneys' fees and  
15 expert witness fees. This section shall survive any termination of this Agreement.  
16

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

20           5. This Agreement is to be construed in accordance with the laws of the State  
21 of California.  
22

23           6. Neither the CITY nor DISTRICT shall assign this Agreement without the  
24 written consent of the other party.

25           7. This Agreement is made and entered into for the sole protection and benefit  
26 of the parties hereto. No other person or entity shall have any right of action based upon the  
27 provisions of this Agreement.  
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1           8. Any and all notices sent or required to be sent to the parties of this  
2 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

3  
4 RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
1995 Market Street  
5 Riverside, CA 92501  
Attn: Administrative Services

CITY OF NORCO  
2870 Clark Avenue  
Norco, CA 92860

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

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

17  
18           11. Any waiver by DISTRICT or CITY of any breach by any other party of any  
19 provision of this Agreement shall not be construed to be a waiver of any subsequent or other  
20 breach of the same or any other provision hereof. Failure on the part of DISTRICT or CITY to  
21 require from any other party exact, full and complete compliance with any of the provisions of  
22 this Agreement shall not be construed as in any manner changing the terms hereof, or estopping  
23 DISTRICT or CITY from enforcing this Agreement.

24  
25           12. This Agreement is intended by the parties hereto as a final expression of  
26 their understanding with respect to the subject matter hereof and as a complete and exclusive  
27 statement of the terms and conditions thereof and supersedes any and all prior and  
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1 contemporaneous agreements and understandings, oral or written, in connection therewith. This  
2 Agreement may be changed or modified only upon the written consent of the parties hereto.

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

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(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

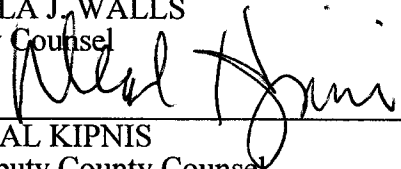
**RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT**

By   
WARREN D. WILLIAMS  
General Manager-Chief Engineer

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

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel  
By   
NEAL KIPNIS  
Deputy County Counsel

KECIA HARPER-IHEM  
Clerk of the Board  
By \_\_\_\_\_  
Deputy

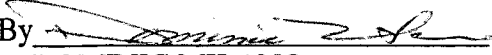
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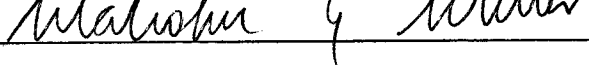
Cooperative Agreement: Norco MDP Lateral NB-3  
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11/2/09

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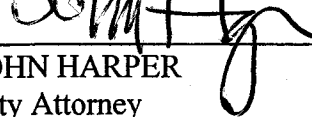
CITY OF NORCO

By   
DOMINIC MILANO  
City Engineer

By   
Mayor

APPROVED AS TO FORM:

ATTEST:

By   
JOHN HARPER  
City Attorney

By   
BRENDA JACOBS  
City Clerk

(SEAL)

Cooperative Agreement: Norco MDP Lateral NB-3  
JPS:bj  
11/2/09