

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS
 DATE: 9/1/14

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

611B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
 September 30, 2014

SUBJECT: Approval of Funding Agreement for Chandler Street Channel: Hall and Selby Avenue Laterals, Eastvale Master Drainage Plan Line F-1: Hall and Selby Avenue Laterals, and Eastvale Master Drainage Plan Line E: 58th Street and Swan Lake Laterals; District 2/2; [Not to exceed \$2,000,000]; 100% District Funds

RECOMMENDED MOTION: That the Board of Supervisors:
 1. Approve the Funding Agreement between the District and the City of Eastvale; and
 2. Authorize the Chairman to execute the Funding Agreement documents on behalf of the District.

BACKGROUND:

Summary

This Funding Agreement sets forth the terms and conditions by which the District will contribute funding to the City of Eastvale (City) for the design and construction of certain flood control facilities within the Eastvale Master Drainage Plan as part of a City administered public works construction contract.

Continued on page 2

P8/163457
 TT:blm

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 1,500,000	\$ 0	\$ 2,000,000	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ 1,500,000	\$ 0	\$ 2,000,000	\$ N/A	

SOURCE OF FUNDS: 25120 947420 536200 – Zone 2
 Contributions to Non-County Agency
 Budget Adjustment: No
 For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

APPROVE
 BY: *[Signature]*
 Steven C. Horn

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

FISCAL PROCEDURES APPROVED
 BY: JEANINE J. REY, FINANCE DIRECTOR
 DATE: 9/3/14

Departmental Concurrence

- A-30
- Positions Added
- 4/5 Vote
- Change Order

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

FORM 11: Approval of Funding Agreement for Chandler Street Channel: Hall and Selby Avenue Laterals, Eastvale Master Drainage Plan Line F-1: Hall and Selby Avenue Laterals, and Eastvale Master Drainage Plan Line E: 58th Street and Swan Lake Laterals; District 2/2; [Not to exceed \$2,000,000]; 100% District Funds

DATE: September 30, 2014

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

The City wishes to eliminate local flooding at three general locations. The proposed flood control facilities will resolve flooding/ponding issues that were not addressed when Developer constructed projects were built. In some cases, inlets for local drainage were not included as part of the Developer's trunk lines. The proposed flood control facilities will address that issue to the benefit of the community.

Upon completion of construction, the City will accept sole responsibility for the ownership, operation and maintenance of the flood control facilities.

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

Impact on Residents and Businesses

The District's financial contribution toward the City's project is funded by ad-valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to residents and businesses. Upon construction completion, these flood control facilities will resolve ongoing flooding/ponding issues and benefit residents and businesses in the area.

SUPPLEMENTAL:

Additional Fiscal Information

Sufficient funding will be included in the District's proposed Zone 2 budget for FY 2014-15 and will be included in the proposed budget in future years as appropriate and necessary.

TT:blm

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FUNDING AGREEMENT

Chandler Street Channel: Hall and Selby Avenue Laterals,
Eastvale Master Drainage Plan Line F-1: Hall and Selby Avenue Laterals, and
Eastvale Master Drainage Plan Line E: 58th Street and Swan Lake Laterals

The Riverside County Flood Control and Water Conservation District,
hereinafter called "DISTRICT", and the City of Eastvale, hereinafter called "CITY", hereby
agree as follows:

RECITALS

A. CITY plans to design, construct and subsequently operate and maintain: (i)
Chandler Street Channel: Hall and Selby Avenue Laterals, (ii) Eastvale Master Drainage Plan
(MDP) Line F-1: Hall and Selby Avenue Laterals, and (iii) Eastvale MDP Line E: 58th Street
and Swan Lake Laterals. Upon construction completion, these flood control facilities will
resolve flooding/ponding issues within certain areas of the City of Eastvale; and

B. The proposed Chandler Street Channel: Hall and Selby Avenue Laterals
consist of approximately 2,700 lineal feet of underground storm drain system, hereinafter called
"CHANDLER STREET CHANNEL LATERALS", as shown in concept in blue on Exhibit A,
attached hereto and made a part hereof. The proposed Eastvale MDP Line F-1: Hall and Selby
Avenue Laterals consist of approximately 1,500 lineal feet of underground storm drain system,
hereinafter called "LINE F-1 LATERALS", as shown in concept in green on Exhibit A. The
proposed Eastvale MDP Line E: 58th Street and Swan Lake Laterals consist of approximately
600 lineal feet of underground storm drain system, hereinafter called "LINE E LATERALS", as
shown in concept in red on Exhibit A; and

C. CHANDLER STREET CHANNEL LATERALS, LINE F-1 LATERALS
and LINE E LATERALS are hereinafter referred to collectively as "PROJECT"; and

1 D. CITY desires that DISTRICT contribute funding for the design and
2 construction of PROJECT. The Engineer's estimated amount for the construction of PROJECT
3 is one million two hundred ninety-eight thousand dollars (\$1,298,000) with six hundred fifty-
4 nine thousand dollars (\$659,000) to CHANDLER STREET CHANNEL LATERALS, four
5 hundred twenty-three thousand dollars (\$423,000) to LINE F-1 LATERALS and two hundred
6 sixteen thousand dollars (\$216,000) to LINE E LATERALS; and
7

8 E. DISTRICT wishes to support CITY'S efforts to construct PROJECT by
9 providing a financial contribution toward CITY'S design and construction of PROJECT as
10 follows:
11

12 (i) The lowest responsive and responsible bid contract amount for the
13 construction of PROJECT is hereinafter called "ORIGINAL BID". One
14 hundred percent (100%) of ORIGINAL BID plus up to an additional ten
15 percent (10%) in the event that construction costs increase above the
16 ORIGINAL BID to offset CITY'S actual construction cost associated with
17 change orders, hereinafter called "CONSTRUCTION CONTRIBUTION";
18 and
19

20 (ii) DISTRICT is also willing to contribute an additional twenty
21 percent (20%) of the ORIGINAL BID to offset CITY'S costs associated
22 with design, environmental permitting, contract administration, surveying
23 and other typical ancillary costs related to the delivery of a flood control
24 facility, hereinafter called "ADDITIONAL CONTRIBUTION".
25

26 Altogether, CONSTRUCTION CONTRIBUTION and ADDITIONAL
27 CONTRIBUTION are hereinafter called "TOTAL CONTRIBUTION". DISTRICT'S TOTAL
28

1 CONTRIBUTION for PROJECT shall not exceed a total sum of two million dollars
2 (\$2,000,000); and

3 F. The purpose of this Agreement is to memorialize the mutual
4 understandings by and between DISTRICT and CITY with respect to the funding, design,
5 construction, ownership, operation and maintenance of PROJECT.
6

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

9 SECTION I

10 CITY shall:

11 1. Endeavor to complete construction of PROJECT within twenty-four (24)
12 months of execution of this Agreement.
13

14 2. Pursuant to the California Environmental Quality Act (CEQA), act as the
15 Lead Agency and assume responsibility for the preparation, circulation and adoption of all
16 necessary and appropriate CEQA documents pertaining to the construction, operation and
17 maintenance of PROJECT.

18 3. Prepare all necessary plans and specifications for PROJECT, hereinafter
19 called "PROJECT PLANS".
20

21 4. Secure all necessary environmental clearances, permits, licenses,
22 agreements, approvals, rights of way, rights of entry and temporary construction easements as
23 may be needed to construct, operate and maintain PROJECT.

24 5. Obtain a no fee encroachment permit from DISTRICT in accordance with
25 its rules and regulations prior to commencing construction of any improvements within
26 DISTRICT'S rights of way or easements by submitting applicable portions of PROJECT
27
28

1 PLANS to DISTRICT (Attn: Encroachment Permit Section) for review and approval prior to
2 advertising PROJECT for public works construction contract bids.

3 6. Advertise PROJECT for public works construction contract bids.

4 7. Prior to the award of a public works construction contract for PROJECT,
5 submit an invoice to DISTRICT (Attention: Chief of Planning Division) for the estimated cost
6 of constructing PROJECT, hereinafter called "INITIAL CONSTRUCTION CONTRIBUTION".
7 The invoice shall be supported by CITY'S bid abstracts for PROJECT.

8 8. Award and administer a public works construction contract for PROJECT.

9 9. Provide DISTRICT (Attention: Chief of Planning Division) with written
10 notice that CITY has awarded a public works construction contract for PROJECT. The written
11 notice shall include the Contractor's actual bid amount for PROJECT, setting forth herein the
12 amount for ORIGINAL BID.
13

14 10. Keep an accurate accounting of all actual construction costs associated
15 with PROJECT and include this final accounting when invoicing DISTRICT for lump sum
16 payment of CONSTRUCTION CONTRIBUTION and ADDITIONAL CONTRIBUTION. The
17 final accounting of construction costs shall include a detailed breakdown of all costs, including
18 but not limited to payment vouchers, contract change orders and other such construction
19 contract documents as may be necessary, to establish the actual construction costs for
20 PROJECT.
21

22 11. Construct PROJECT pursuant to a CITY administered public works
23 contract.
24

25 12. Inspect PROJECT construction.

26 13. Furnish all construction survey and materials testing services necessary to
27 construct PROJECT.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14. Upon completion of PROJECT construction and CITY'S acceptance thereof, accept sole responsibility for the design, ownership, operation and maintenance of PROJECT.

15. Upon completion of PROJECT construction, provide DISTRICT with a copy of CITY'S recorded Notice of Completion and invoice DISTRICT (Attn: Chief of Planning Division) for (a) CONSTRUCTION CONTRIBUTION, and (b) ADDITIONAL CONTRIBUTION for PROJECT as set forth herein. The invoice shall include a final accounting of actual construction costs as set forth in Section I.10.

SECTION II

DISTRICT shall:

1. Pay CITY, within thirty (30) days after receipt of CITY'S appropriate invoice, for INITIAL CONSTRUCTION CONTRIBUTION as set forth in Section I.7.

2. Pay CITY, within thirty (30) days after receipt of CITY'S recorded Notice of Completion and appropriate invoice, for (a) CONSTRUCTION CONTRIBUTION, and (b) ADDITIONAL CONTRIBUTION for PROJECT, as set forth in Section I.15.

3. Under the provisions of this Agreement, DISTRICT shall bear no responsibility whatsoever for the design, construction, ownership, operation and maintenance of PROJECT.

SECTION III

It is further mutually agreed:

1. DISTRICT'S TOTAL CONTRIBUTION for PROJECT shall not exceed a total sum of two million dollars (\$2,000,000) and shall be used by CITY solely for the purpose of designing and constructing PROJECT as set forth herein.

1 2. CITY shall indemnify, defend, save and hold harmless DISTRICT and
2 County of Riverside (including their respective officers, districts, special districts and
3 departments, their respective directors, officers, Board of Supervisors, elected and appointed
4 officials, employees, agents, representatives, independent contractors, and subcontractors) from
5 any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of
6 or in any way relating to CITY'S (including its officers, employees, agents, representatives,
7 independent contractors, and subcontractors) actual or alleged acts or omissions related to this
8 Agreement, performance under this Agreement, or failure to comply with the requirements of
9 this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death (c)
10 payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.
11

12 3. In the event of any arbitration, action or suit brought by either CITY or
13 DISTRICT against the other party by reason of any breach on the part of the other party of any
14 of the covenants and agreements set forth in this Agreement, or any other dispute between
15 DISTRICT and CITY concerning this Agreement, the prevailing party in any such action or
16 dispute, by a final judgment or arbitration award, shall be entitled to have and recover from the
17 other party all costs and expenses or claims, including but not limited to, attorneys' fees and
18 expert witness fees. This section shall survive any termination of this Agreement.
19

20 4. If any provision in this Agreement is held by a court of competent
21 jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless
22 continue in full force without being impaired or invalidated in any way.
23

24 5. This Agreement is to be construed in accordance with the laws of the State
25 of California. Neither CITY nor DISTRICT shall assign this Agreement without the written
26 consent of the other party.
27
28

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

7 7. This Agreement is made and entered into for the sole protection and benefit
8 of the parties hereto. No other person or entity shall have any right of action based upon the
9 provisions of this Agreement.
10

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

13 RIVERSIDE COUNTY FLOOD CONTROL 14 AND WATER CONSERVATION DISTRICT 15 1995 Market Street 16 Riverside, CA 92501 17 Attn: Chief of Planning Division	18 CITY OF EASTVALE 19 12363 Limonite Avenue, Suite 910 20 Eastvale, CA 91752 21 Attn: Joe Indrawan
---	--

22 9. This Agreement is the result of negotiations between the parties hereto, and
23 the advice and assistance of their respective counsel. The fact that this Agreement was prepared
24 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty
25 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT
26 prepared this Agreement in its final form.
27

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

//

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

(to be filled in by the 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:

GREGORY P. PRIAMOS
County Counsel

ATTEST:

KECIA HARPER-IHEM
Clerk of the Board

By 
NEAL R. KIPNIS
Deputy County Counsel

By _____
Deputy

(SEAL)

Funding Agreement w/City of Eastvale for
Chandler Street Channel: Hall and Selby Avenue Laterals,
Eastvale MDP Line F-1: Hall and Selby Avenue Laterals, and
Eastvale MDP Line E: 58th Street and Swan Lake Laterals
08/26/14
TT:blm

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RECOMMENDED FOR APPROVAL: **CITY OF EASTVALE**

By 
JOHN E. CAVANAUGH
Acting City Manager

By 
IKE BOOTSMA
Mayor

ATTEST:

By 
MARC DONOHUE
City Clerk

(SEAL)

Funding Agreement w/City of Eastvale for
Chandler Street Channel: Hall and Selby Avenue Laterals,
Eastvale MDP Line F-1: Hall and Selby Avenue Laterals, and
Eastvale MDP Line E: 58th Street and Swan Lake Laterals
08/26/14
TT:blm

Exhibit A



Funding Agreement for
Chandler Street Channel: Hall and Selby Avenue Laterals,
Eastvale MDP Line F-1: Hall and Selby Avenue Laterals, and
Eastvale MDP Line E: 58th Street and Swan Lake Laterals

Exhibit A



Funding Agreement for
Chandler Street Channel: Hall and Selby Avenue Laterals,
Eastvale MDP Line F-1: Hall and Selby Avenue Laterals, and
Eastvale MDP Line E: 58th Street and Swan Lake Laterals
2 of 3

Exhibit A



Funding Agreement for
Chandler Street Channel: Hall and Selby Avenue Laterals,
Eastvale MDP Line F-1: Hall and Selby Avenue Laterals, and
Eastvale MDP Line E: 58th Street and Swan Lake Laterals