

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

312 B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
April 10, 2012

SUBJECT: Norco MDP Lines N-7, S-5A, S-6, NB-2, N-1A, N-1B, N-1E and Eastvale MDP Line E-3
Project Nos. 2-0-00132, 2-0-00162, 2-0-00166, 2-0-00167, 2-0-00168, and 2-0-00327
Funding Agreement
District Two/District Two

RECOMMENDED MOTION:

1. Approve the Funding Agreement between the District and the City of Norco; and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The Agreement sets forth the terms and conditions by which the District will contribute funding to the City of Norco (City) for the design and construction of segments of flood control facilities within the Norco MDP and Eastvale MDP as part of City administered street improvement project contracts. Upon completion of construction, the City will accept sole responsibility for the ownership, operation and maintenance of the facilities.

Continued on Page 2

Steve Thomas
For **WARREN D. WILLIAMS**
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	\$1,000,000	In Current Year Budget:	Yes
	Current F.Y. County Cost:	N/A	Budget Adjustment:	No
	Annual Net District Cost:	\$1,946,000	For Fiscal Year:	11-12 & 12-13

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

C.E.O. RECOMMENDATION:

APPROVE

BY: *Michael R Shetler*
Michael R. Shetler

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

On motion of Supervisor Tavaglione, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone and Benoit
Nays: None
Absent: Ashley
Date: April 10, 2012
xc: Flood

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.:

District: 2nd/2nd

Agenda Number:

11.5

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FISCAL PROCEDURES APPROVED
BY: *Warren D. Williams*
WARREN D. WILLIAMS, FINANCIAL DIRECTOR
3/14/2012

FORM APPROVED COUNTY COUNSEL
BY: *Neal R. Kipnis*
NEAL R. KIPNIS, COUNTY COUNSEL
DATE: 3/14/2012

Departmental Concurrence
BY: *Warren D. Williams*
WARREN D. WILLIAMS, GENERAL MANAGER-CHIEF ENGINEER

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

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

SUBJECT: Norco MDP Lines N-7, S-5A, S-6, NB-2, N-1A, N-1B, N-1E and Eastvale MDP Line E-3
Project Nos. 2-0-00132, 2-0-00162, 2-0-00166, 2-0-00167, 2-0-00168, 2-0-00327
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District Two/District Two

SUBMITTAL DATE: April 10, 2012
Page 2

BACKGROUND:

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

FINANCIAL:

Sufficient funds are available in the District's Zone 2 budget for FY 2011-2012 and will be included in the District's proposed budget for FY 2012-2013.

CLC:blj
P8/143652

FUNDING AGREEMENT

1 Norco MDP Lines N-7, S-5A, S-6, NB-2, N-1A, N-1B, and N-1E and
 2 Eastvale MDP Line E-3
 3 Project Nos. 2-0-00132, 2-0-00162, 2-0-00166, 2-0-00167, 2-0-00168, and 2-0-00327

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 plans to design and construct certain flood control facilities as part of
 9 CITY'S street improvement project contracts. These flood control facilities will provide
 10 improved drainage and flood control within certain areas of the City of Norco and its adjacent
 11 surrounding communities; and

12 B. These flood control facilities are identified in the DISTRICT'S Norco and
 13 Eastvale Master Drainage Plans ("MDP"), and generally consist of the following discrete
 14 segments:
 15

16 (i) Norco MDP Line N-7 ("LINE N-7") - a storm drain system from
 17 Valley View Avenue westerly approximately 200 LF to an existing storm drain system;

18 (ii) Norco MDP Lateral S-5A ("LATERAL S-5A") - a storm drain system
 19 from Kingman Drive southwesterly for approximately 250 LF to Hillside Lane;

20 (iii) Norco MDP Line S-6 ("LINE S-6") - a storm drain system from
 21 Temescal Avenue north of Second Street (approximately at Norco High School)
 22 westerly approximately 600 LF to the existing South Norco Channel;

23 (iv) Norco MDP Line NB-2 ("LINE NB-2") - an approximately 750 LF of
 24 storm drain system located in Temescal Avenue from south of Wrangler Way to the
 25 DISTRICT'S existing Norco MDP Line NB;
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1 (v) Norco MDP Line N-1A ("LINE N-1A") - an approximately 1,200 LF
2 of storm drain system located in Center Avenue south of the intersection of Center
3 Avenue and Seventh Street;

4 (vi) Norco MDP Line N-1B ("LINE N-1B") - an approximately 1,685 LF
5 of storm drain system located in Hillside Avenue south of the intersection of Hillside
6 Avenue and Seventh Street;

7 (vii) Norco MDP Line N-1E ("LINE N-1E") - an approximately 450 LF of
8 storm drain system located in Center Avenue from north of Seventh Street;

9 (viii) Eastvale MDP Line E-3 ("LINE E-3") - an approximately 1500 LF of
10 storm drain system in Hamner Avenue from north of Citrus Street; and
11

12 C. LINE N-7, LATERAL S-5A, LINE S-6, LINE NB-2, LINE N-1A, LINE
13 N-1B, LINE N-1E AND LINE E-3 are referred to collectively as "PROJECT", and discretely as
14 "SEGMENT", throughout this Agreement; and

15 D. CITY plans to design and construct SEGMENT(S) in conjunction with the
16 respective CITY administered street improvement project contracts; and
17

18 E. CITY desires that DISTRICT contribute funding for the design and
19 construction of PROJECT; and

20 F. DISTRICT wishes to support CITY'S efforts to construct PROJECT by
21 providing a financial contribution toward the PROJECT'S design and construction along with
22 the associated administrative and ancillary costs as set forth herein; and

23 G. The DISTRICT'S financial contributions shall be as follows:

24 (i) One hundred percent (100%) of the bid contract price (ORIGINAL
25 BID) for each SEGMENT, plus up to an additional ten percent (10%) in the event that
26 construction costs increase above the ORIGINAL BID amount to offset CITY'S actual
27

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1 construction cost associated with construction contract change orders (hereinafter called
2 the "CONSTRUCTION CONTRIBUTION") provided the ORIGINAL BID for each
3 SEGMENT does not exceed or unreasonably exceed the Engineer's estimated amounts
4 as shown in Exhibit "A", attached hereto and made a part hereof, as solely determined by
5 the DISTRICT;

6 (ii) DISTRICT is also willing to contribute an additional twenty percent
7 (20%) of the ORIGINAL BID amount for each SEGMENT to offset CITY'S costs
8 associated with design, environmental permitting, surveying, contract administration and
9 other typical ancillary costs related to the delivery of a flood control facility (hereinafter
10 called the "ADDITIONAL CONTRIBUTION"); and
11

12 H. Altogether, CONSTRUCTION CONTRIBUTION and ADDITIONAL
13 CONTRIBUTION are hereinafter called "DISTRICT CONTRIBUTION". The total DISTRICT
14 CONTRIBUTION for PROJECT shall not exceed a total sum of two million nine hundred
15 forty-six thousand dollars (\$2,946,000); and
16

17 I. The purpose of this Agreement is to memorialize the mutual
18 understandings by and between CITY and DISTRICT with respect to the design, construction,
19 ownership, operation and maintenance of PROJECT, and the payment of DISTRICT
20 CONTRIBUTION.

21 NOW, THEREFORE, in consideration of the preceding recitals and the mutual
22 covenants hereinafter contained, the parties hereto mutually agree as follows:
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26 SECTION I

27 CITY shall:
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1 1. Prepare or cause to be prepared all necessary plans and specifications for
2 each SEGMENT, hereinafter called "PLANS".

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

7 3. Secure, at its sole cost and expense, all necessary environmental
8 clearances, permits, licenses, agreements, approvals, rights of way, rights of entry and
9 temporary construction easements as may be necessary to construct, operate and maintain
10 SEGMENT.

11 4. Obtain an encroachment permit from DISTRICT in accordance with its
12 rules and regulations prior to commencing construction of any improvements within
13 DISTRICT'S rights of way, easements or within DISTRICT'S existing facilities by submitting
14 applicable PLANS to DISTRICT for review and approval prior to advertising SEGMENT as a
15 public works construction contract.
16

17 5. Prior to awarding a public works construction contract(s) for SEGMENT,
18 provide DISTRICT with seven (7) calendar days following construction bid opening to review
19 and approve or reject bids for construction of SEGMENT. DISTRICT may only reject bids
20 found by DISTRICT to be either (i) unreasonably high, or (ii) unbalanced such that the burden
21 of the overall construction cost is unduly shifted upon construction of SEGMENT. DISTRICT
22 shall not unreasonably withhold approval of contract(s).
23

24 6. Advertise, award and administer a public works SEGMENT construction
25 contract(s).
26

1 7. Provide DISTRICT with written notice that CITY has awarded a
2 construction contract(s) for SEGMENT. The written notice shall include the Contractor's actual
3 bid amounts for SEGMENT, setting forth the ORIGINAL BID amount as set forth herein.

4 8. Endeavor to begin construction on all SEGMENTS within twelve (12)
5 months of execution of this Agreement.

6 9. Keep an accurate accounting of all actual construction costs associated
7 with each SEGMENT and provide DISTRICT with a final accounting of construction costs,
8 including contract change orders, when invoicing DISTRICT for final payment of DISTRICT
9 CONTRIBUTION as set forth in Section I.12.

10 10. Supervise and inspect all aspects of SEGMENTS construction.

11 11. Upon completion of SEGMENT construction and CITY'S acceptance
12 thereof, be solely responsible for the ownership, operation and maintenance of SEGMENT.
13

14 12. Upon completion of SEGMENT construction and settlement of any
15 outstanding claims, provide DISTRICT with a copy of CITY'S recorded Notice of Completion
16 and invoice the DISTRICT (Attention: Chief of Design and Construction Division) for a lump
17 sum DISTRICT CONTRIBUTION for SEGMENT as set forth herein. The invoice shall
18 include a detailed breakdown of all actual construction costs and its associated supporting
19 documents as set forth in Section I.9.
20

21 SECTION II

22 DISTRICT shall:

23 1. Review and approve applicable PLANS prior to CITY advertising
24 SEGMENT for bids and issue encroachment permit(s) to CITY in accordance with DISTRICT
25 rules and regulations for any improvement(s) within DISTRICT'S rights of way, easements or
26 within DISTRICT'S existing facilities.
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1 this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death (c)
2 payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.

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

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

13 5. This Agreement is to be construed in accordance with the laws of the State
14 of California. Neither the CITY nor DISTRICT shall assign this Agreement without the written
15 consent of the other party.

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

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

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 RIVERSIDE COUNTY FLOOD CONTROL
4 AND WATER CONSERVATION DISTRICT
5 1995 Market Street
6 Riverside, CA 92501
7 Attn: Steve Thomas

CITY OF NORCO
2870 Clark Avenue
Norco, CA 92860
Attn: Bill Thompson

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

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

19 11. This Agreement is intended by the parties hereto as a final expression of
20 their understanding with respect to the subject matter hereof and as a complete and exclusive
21 statement of the terms and conditions thereof and supersedes any and all prior and
22 contemporaneous agreements and understandings, oral or written, in connection therewith. This
23 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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4-10-12

(to be filled in by the Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By Steve Thomas
For **WARREN D. WILLIAMS**
General Manager-Chief Engineer

By Marion Ashley
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 [Signature]
NEAL R. KIPNIS
Deputy County Counsel

KECIA HARPER-IHEM
Clerk of the Board
By [Signature]
Deputy

(SEAL)

Funding Agreement
Norco MDP Lines N-7, S-5A, S-6, NB-2, N-1A, N-1B, N-1E
Eastvale MDP Line E-3
1/30/12
CLC:blj

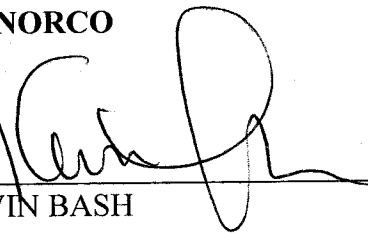
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RECOMMENDED FOR APPROVAL:


CITY OF NORCO

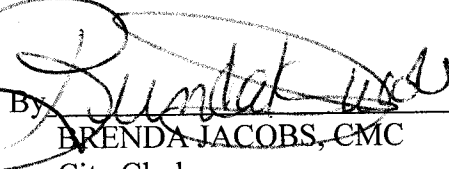
By 
BETH GROVES
City Manager

By 
KEVIN BASH
Mayor

APPROVED AS TO FORM:

ATTEST:

By 
JOHN HARPER
City Attorney

By 
BRENDA JACOBS, CMC
City Clerk

(SEAL)

Funding Agreement
Norco MDP Lines N-7, S-5A, S-6, NB-2, N-1A, N-1B, N-1E
Eastvale MDP Line E-3
1/30/12
CLC:blj

EXHIBIT A

LINE	LOCATION	ENGINEERS ESTIMATE
1. NORCO MDP LINE N-7	A storm drain system from Valley View Avenue westerly approximately 200 LF to an existing storm drain system	\$67,215
2. NORCO MDP LATERAL S-5A	A storm drain system from Kingman Drive southwesterly for an approximately 250 LF to Hillside Lane	\$122,341
3. NORCO MDPLINE S-6	A storm drain system from Temescal Avenue north of Second Street (approximately at Norco High School) westerly approximately 600 LF to the existing South Norco Channel	\$262,530
4. NORCO MDP LINE NB-2	Approximately 750 LF of storm drain system located in Temescal Avenue from south of Wrangler Way to the District's existing Norco MDP Line NB	\$330,961
5. NORCO MDP LINE N-1A	Approximately 1200 LF of storm drain system located in Center Avenue south of the intersection of Center Avenue and Seventh Street	\$400,784
6. NORCO MDP LINE N-1B	Approximately 1685 LF of storm drain system located in Hillside Avenue south of the intersection of Hillside Avenue and Seventh Street	\$500,537
7. NORCO MDP LINE N-1E	Approximately 450 LF of storm drain system located in Center Avenue from north of Seventh Street	\$147,452
8. EASTVALE MDP LINE E-3	Approximately 1500 LF of storm drain system in Hamner Avenue from north of Citrus Street	\$400,000