

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

569B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

March 11, 2014

SUBJECT: Funding Agreement for Coldwater and Mayhew Canyon Water Recharge Master Plan,
Phase 1
District 2/District 2 [\$347,500.00]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Funding Agreement (Agreement) between the District and the City of Corona (City);
2. Authorize the Chairman to execute the Agreement on behalf of the District; and
3. Authorize the General Manager-Chief Engineer to extend time for performance for an additional year.

[Continue on page 2]

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P8/157858

Steve Thomas
For **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	\$ 347,500.00	\$ 0.00	\$ 347,500.00	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ 347,500.00	\$ 0.00	\$ 347,500.00	\$ N/A	
SOURCE OF FUNDS: 25120 947420 536200 Zone 2 – Contribution to Non-County Agency				Budget Adjustment: NO	
				For Fiscal Year: 13/14; 14/15	

C.E.O. RECOMMENDATION:

APPROVE

BY *Steven C. Horn*
Steven C. Horn, MPA

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley

Nays: None

Absent: None

Date: March 11, 2014
xc: Flood

Kecia Harper-Ihem
Clerk of the Board

By: *Spencer*
Deputy

Prev. Agn. Ref.:

District: 2nd/2nd

Agenda Number:

11 - 1

FISCAL PROCEDURES APPROVED
 JEANINE J. REY, FINANCE DIRECTOR
 DATE 12/13/13
 BY NEAL R. KIPNIS
 Jan Departmental Clerk

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

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT
BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**
FORM 11: Funding Agreement for Coldwater and Mayhew Canyon Water Recharge Project
Phase 1
District 2/District 2 [\$347,500.00]
DATE: March 11, 2014
PAGE: Page 2 of 2

[Continued from page 1]

BACKGROUND:

The Agreement sets forth the terms and conditions by which the District will contribute funding to the City for the preparation of the Coldwater and Mayhew Canyon Water Recharge Master Plan, Phase 1 project. Phase I of the project consists of characterizing the groundwater basin, preparing engineered plans to reestablish the Glen Ivy Road settlement basins, and developing partnerships with the operators of the Coldwater and Mayhew Canyon mining operations to promote stormwater recharge within their operations.

The District wishes to support the City's efforts to augment municipal water supplies and stabilize the Temescal Groundwater Basin. Therefore, the District will contribute a lump sum amount equal to fifty percent (50%) of the Phase 1 project costs not-to-exceed three-hundred forty-seven thousand five hundred dollars (\$347,500) in Fiscal Year 2013-2014. Funding of this project supports water conservation efforts within Zone 2.

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

Impact on Citizens and Businesses

This project is funded by ad-valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to citizens and businesses.

SUPPLEMENTAL:

Additional Fiscal Information

Sufficient funding is available in the District's Zone 2 budget for FY 2013-2014 and will be included in the proposed budget for FY 2014-2015, as necessary.

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FUNDING AGREEMENT
COLDWATER & MAYHEW CANYON WATER RECHARGE MASTER PLAN
PHASE I

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", and the CITY of CORONA, hereinafter called "CITY", hereby enter into this Funding Agreement (Coldwater and Mayhew Canyon Water Recharge Master Plan – Phase I) ("Agreement") and agree as follows:

RECITALS

A. CITY has prepared a Groundwater Management Plan ("GWMP") in accordance with the guidelines set forth in AB 3030 (California Water Code Sections 10750-10756) to operate groundwater basins in a sustainable manner for beneficial uses and increase the reliability of water supply for various groundwater basins, including the Coldwater Groundwater Sub-basin; and

B. A Program Environmental Impact Report ("PEIR") for GWMP was adopted by CITY in 2012; and

C. GWMP provides strategies for more sustainable management and use of groundwater resources to meet future demands. Management strategies identified in GWMP for enhancing groundwater recharge include surface recharge basins, recharge wells, and in-lieu pumping when imported water is available; and

D. To meet GWMP's objectives, CITY desires to prepare the Coldwater and Mayhew Canyon Water Recharge Master Plan to enhance the quantity and quality of groundwater in the Coldwater Groundwater Sub-basin (hereinafter referred to as "PROJECT"); and

E. Phase I of PROJECT consists of characterizing the groundwater basin, preparing engineered plans to reestablish the Glen Ivy Road settlement basins, and developing

1 partnerships with the operators of the Coldwater and Mayhew Canyon mining operations to
2 promote stormwater recharge within their operations and to help develop a sustainable
3 groundwater management plan that includes the conjunctive use of surface waters and
4 groundwater (hereinafter referred to as "PHASE I"); and

5 F. DISTRICT wishes to provide only financial assistance to CITY for this
6 PHASE I and have no other role; and

7 G. DISTRICT is willing to make a financial contribution, as set forth herein,
8 in support of CITY'S efforts toward PHASE I (hereinafter referred to as "DISTRICT
9 CONTRIBUTION"); and

10 H. DISTRICT CONTRIBUTION shall be based on a 50-50 cost-share
11 formula for a consultant to complete PHASE I work; provided, however, that DISTRICT
12 CONTRIBUTION shall not exceed three hundred forty-seven thousand five hundred dollars
13 (\$347,500).
14

15
16 NOW, THEREFORE, in consideration of the preceding recitals and the mutual
17 covenants hereinafter contained, the parties hereto mutually agree as follows:

18 SECTION I

19 CITY shall:

20 1. Pursuant to the California Environmental Quality Act (CEQA), act as Lead
21 Agency and assume responsibility for preparation, circulation and adoption of all necessary and
22 appropriate CEQA documents pertaining to PHASE 1.

23 2. Obtain at its sole cost and expense, all necessary permits, approvals or
24 agreements required by any Federal, State and local resource or regulatory agencies pertaining
25 to PHASE 1.
26

27 3. Enter into a consultant contract for completion of PHASE I.
28

4. Provide DISTRICT with written notice that CITY has awarded a consultant contract for PHASE I. The written notice shall include the consultant's scope of work and cost proposal for PHASE I.

5. Invoice District at the time of providing written notice to DISTRICT of the award of a consultant contract, as set forth in Section I.4, for the lesser of fifty percent (50%) of consultant's cost proposal for PHASE I or three hundred forty-seven thousand five hundred dollars (\$347,500).

6. Provide DISTRICT copies of all draft and final work products, data or reports prepared by consultant for PHASE I.

SECTION II

DISTRICT shall:

1. Within thirty (30) days after receipt of appropriate invoice from CITY as set forth in Section I.5, pay the invoice, up to the maximum DISTRICT CONTRIBUTION, to CITY. As indicated in Recital "H" above, the amount paid to CITY shall not exceed three hundred forty-seven thousand five hundred dollars (\$347,500).

SECTION III

It is further mutually agreed:

1. DISTRICT CONTRIBUTION shall be used by CITY solely for the purpose of conducting PHASE I of PROJECT as set forth herein.

2. CITY shall indemnify, defend, save and hold harmless DISTRICT (including its respective officers, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way

1 relating to CITY'S (including its officers, employees, agents, representatives, independent
2 contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement,
3 performance under this Agreement, or failure to comply with the requirements of this
4 Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
5 payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.

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

17 DISTRICT's only role in PROJECT is to provide financial assistance to
18 CITY. DISTRICT has no other role in PROJECT, including but not limited to no role related
19 to water rights issues connected in any way with PROJECT. In the event there develops any
20 litigation related to water rights issues for PROJECT, and DISTRICT becomes a party, then
21 CITY shall provide to DISTRICT the same indemnification as described in the prior paragraph
22 but applied to the water rights issues.

23
24 3. In the event of any arbitration, action or suit brought by either CITY or
25 DISTRICT against the other party by reason of any breach on the part of the other party of any
26 of the covenants and agreements set forth in this Agreement, or any other dispute between
27 DISTRICT and CITY concerning this Agreement, the prevailing party in any such action or
28

1 dispute, by a final judgment or arbitration award, shall be entitled to have and recover from the
 2 other party all costs and expenses or claims, including but not limited to, attorneys' fees and
 3 expert witness fees. This section shall survive any termination of this Agreement.

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

7 5. This Agreement is to be construed in accordance with the laws of the State
 8 of California.

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

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

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

16 RIVERSIDE COUNTY FLOOD CONTROL	CITY OF CORONA
17 AND WATER CONSERVATION DISTRICT	755 Public Safety Way
18 1995 Market Street	Corona, CA 92880
19 Riverside, CA 92501	Attn: Mr. Tom Koper
20 Attn: Mr. Steve Thomas	

21 9. Any action at law or in equity brought by any of the parties hereto for the
 22 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court of
 23 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
 24 waive all provisions of law providing for a change of venue in such proceedings to any other
 25 county.
 26
 27
 28

1 10. This Agreement is the result of negotiations between the parties hereto,
2 and the advice and assistance of their respective counsel. The fact that this Agreement was
3 prepared as a matter of convenience by DISTRICT shall have no import or significance. Any
4 uncertainty or ambiguity in this Agreement shall not be construed against DISTRICT because
5 DISTRICT prepared this Agreement in its final form.
6

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

14 12. This Agreement is intended by the parties hereto as a final expression of
15 their understanding with respect to the subject matter hereof and as a complete and exclusive
16 statement of the terms and conditions thereof and supersedes any and all prior and
17 contemporaneous agreements and understandings, oral or written, in connection therewith.
18 This Agreement may be changed or modified only upon the written consent of the parties
19 hereto.
20

21 //

22 //

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

3-11-14

(to be filled in by 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

KECIA HARPER-IHEM
Clerk of the Board

By Neal Kipnis
NEAL KIPNIS
Deputy County Counsel

By David Etkin
Deputy

(SEAL)

Funding Agreement – Coldwater and Mayhew Canyon Water Recharge Master Plan – Phase I
City of Corona
12/26/13
MHW:blj

1 **CITY OF CORONA**

2
3 By

4 JONATHAN DALY

General Manager

5 Department of Water and Power

6 APPROVED AS TO FORM:

7
8 By

9 DEAN DERLETH

City Attorney

ATTEST:

By

LISA MOBLEY

Chief Deputy City Clerk

(SEAL)

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