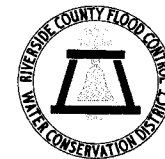


FORM APPROVED COUNTY COUNSEL  
DATE 6/21/16  
BY: GREGORY P. PRIAMOS  
FISCAL PROCEDURES APPROVED  
JEANINE J. REY, FINANCE DIRECTOR  
JEANINE J. REY, Financial Concurrence  
A-30 ☐ Positions Added ☐ Change Order  
4/5 Vote ☐

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

903B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

July 26, 2016

SUBJECT: Approve Funding Agreement for Norco Minor Drainage Improvement Corona Avenue  
Extension of Line NB-3; 2nd District; [Not-to-Exceed \$282,100]; District Funds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

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:

Summary

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 the extension of the Line NB-3 flood control facility as part of City administered contract. Upon completion of construction, the City will accept sole responsibility for the ownership, operation and maintenance of the facilities.

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

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JASON E. UHLEY  
General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 282,100	\$ N/A	\$ 282,100	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ 282,100	\$ N/A	\$ 282,100	\$ N/A	

SOURCE OF FUNDS: 25120-947420-536200

Contribution to Non-County Agency – Zone 2

Budget Adjustment: No

For Fiscal Year: FY16-17

C.E.O. RECOMMENDATION:

APPROVE

BY:   
Steven C. Horn

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley  
Nays: None  
Absent: None  
Date: July 26, 2016  
xc: Flood

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

Prev. Agn. Ref.:

District: 2<sup>nd</sup>

Agenda Number:

11-2

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

**FORM 11:** Approve Funding Agreement for Norco Minor Drainage Improvement Corona Avenue  
Extension of Line NB-3; 2nd District; [\$282,100]; District Funds 100%

**DATE:** July 27, 2016

**PAGE:** Page 2 of 2

**Impact on Residents and Businesses**

Agreement will be funded by ad-valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to residents and businesses.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

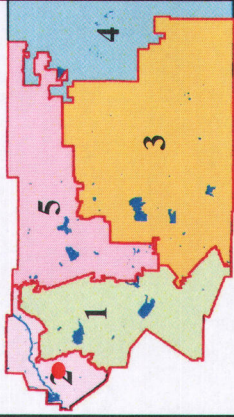
Sufficient funds are available in the District's Zone 2 budget for FY 2016-2017.

**ATTACHMENT:**

1. Vicinity Map
2. Funding Agreement

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Supervisor Districts

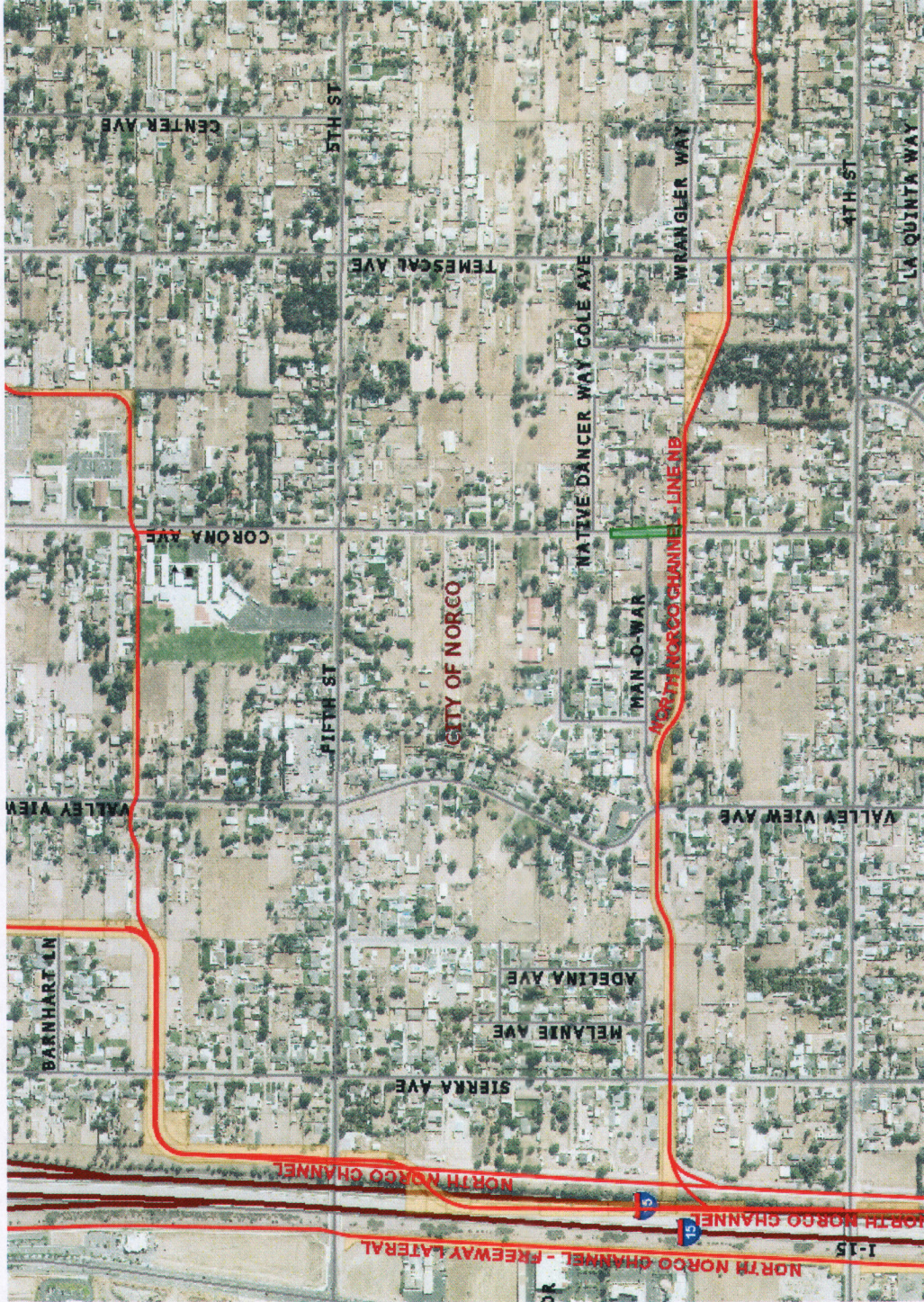
**LEGEND:**



Project Vicinity

**DESCRIPTION:**

Put a very brief description





**FUNDING AGREEMENT**

**NORCO MINOR DRAINAGE IMPROVEMENT  
CORONA AVENUE EXTENSION OF LINE NB-3**

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

**RECITALS**

A. CITY has prepared plans and specifications for the construction of an extension of an underground storm drain "Line NB-3", hereinafter called "PROJECT"; and

B. PROJECT extends approximately 660 lineal feet north on Corona Avenue from the existing Line NB-3 storm drain; and

C. CITY plans to advertise, award and administer a public works construction contract for PROJECT during Fiscal Year 2016/17; and

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

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

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

(a) One hundred percent (100%) of contract bid price (the "BID PRICE");

(b) An additional ten percent (10%) of BID PRICE (the "CONSTRUCTION CONTINGENCY") paid in the event that the final PROJECT construction cost exceeds BID PRICE; and

1 (c) An additional twenty percent (20%) of BID PRICE to offset CITY'S  
2 costs associated with design, environmental permitting, surveying,  
3 contract administration, and other typical ancillary costs related to the  
4 delivery of the facility (hereinafter called "ADDITIONAL  
5 CONTRIBUTION"); and  
6

7 H. Altogether, BID PRICE, CONSTRUCTION CONTINGENCY and  
8 ADDITIONAL CONTRIBUTION are hereinafter called "DISTRICT CONTRIBUTION". The  
9 total DISTRICT CONTRIBUTION for PROJECT shall not exceed a total of two hundred  
10 eighty-two thousand one hundred dollars (\$282,100); and  
11

12 I. The purpose of this agreement is to memorialize the mutual  
13 understandings by and between CITY and DISTRICT with respect to the design, construction,  
14 ownership, operation and maintenance of PROJECT, and the payment of DISTRICT  
15 CONTRIBUTION.

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  
21 1. Secure, at its sole cost and expense, all necessary rights of way, rights of  
22 entry and temporary construction easements necessary to construct, inspect, operate and  
23 maintain PROJECT.

24 2. Acting as the Lead Agency, comply with the applicable provisions of  
25 California Environmental Quality Act (CEQA).

26 3. CITY shall be solely responsible for complying with all applicable  
27 environmental programs and regulations including but not limited to the Federal Clean Water  
28

1 Act (Sections 404 and 401), the National Flood Insurance Act (Section 1361(c)), the California  
2 Fish and Game Code (Section 1600) and the Western Riverside County Multi-Species Habitat  
3 Conservation Plan (WRCMSHCP); and

4  
5 4. Advertise PROJECT for bids pursuant to the applicable provisions of the  
6 California Public Contract Code. At the time of advertising for bids, provide DISTRICT with a  
7 copy of PROJECT plans, specifications, bid documents and any subsequent addenda thereto.

8  
9 5. Prior to the award of the construction contract for PROJECT, submit an  
10 invoice to DISTRICT for the estimated cost of constructing PROJECT (equal to BID PRICE  
11 plus ADDITIONAL CONTRIBUTION). The invoice shall be supported by a copy of the  
12 CITY'S bid abstracts for PROJECT.

13  
14 6. Construct PROJECT pursuant to a CITY administered public works  
15 contract.

16  
17 7. Supervise and inspect all aspects of PROJECT construction.

18  
19 8. Upon completion of PROJECT construction and CITY'S acceptance  
20 thereof, accept sole responsibility for the design, ownership, operation and maintenance of  
21 PROJECT.

22  
23 9. Upon completion of PROJECT construction, provide DISTRICT with a  
24 copy of CITY'S Notice of Completion along with its claim for any construction cost items in  
25 excess of BID PRICE.

## 26 SECTION II

27  
28 DISTRICT shall:

1. Acting as a Responsible Agency, comply with the applicable provisions of  
California Environmental Quality Act (CEQA).

1           2.     Within thirty (30) days of receiving of CITY'S Notice of Intent to award  
2 PROJECT construction contract, pay CITY the BID PRICE plus ADDITIONAL  
3 CONTRIBUTION.

4           3.     Within thirty (30) days of CITY awarding PROJECT construction contract,  
5 pay Riverside Conservation Agency (RCA) the lesser of 3% of BID PRICE or 3% of BID  
6 PRICE less the value of applicable project-specific mitigation.  
7

8           4.     Within thirty (30) days of receiving of CITY'S Notice of Completion for  
9 PROJECT and, if applicable, CITY'S claim for increased construction costs, pay any  
10 outstanding claim from CONSTRUCTION CONTINGENCY.  
11

### 12                               SECTION III

13               It is further mutually agreed:

14           1.     The DISTRICT CONTRIBUTION is a one-time cash contribution to be  
15 used by CITY solely for the purpose of constructing PROJECT as set forth herein. No  
16 additional funding whatsoever shall be provided by DISTRICT for any subsequent PROJECT  
17 modifications, extensions or repairs.

18           2.     In the event the actual construction cost for PROJECT is less than the BID  
19 PRICE, CITY shall refund the difference to DISTRICT within thirty (30) days of filing the  
20 Notice of Completion for PROJECT.  
21

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

25           4.     In the event that any claim or legal action is brought against DISTRICT, in  
26 connection with this Agreement and based upon the actual or alleged acts or omissions of CITY,  
27 its officers, employees, consultant, contractors or agents, including but not limited to claims or  
28

1 legal action related to the design, construction, operation, maintenance or failure of PROJECT,  
2 CITY shall defend, indemnify and hold DISTRICT harmless therefrom without cost to  
3 DISTRICT. This shall include providing DISTRICT with legal representation and pay for  
4 related costs for any such claim or legal action, and payment of any settlement or judgment on  
5 behalf of DISTRICT, all at no cost to DISTRICT. Upon CITY'S failure to do so, DISTRICT  
6 shall be entitled to recover from CITY all of its costs and expenses, including, but not limited to,  
7 reasonable attorneys' fees.  
8

9           5. 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  
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           6. 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

21           7. This Agreement is to be construed in accordance with the laws of the State  
22 of California. Neither CITY nor DISTRICT shall assign this Agreement without the written  
23 consent of the other party.

24           8. This Agreement is made and entered into for the sole protection and benefit  
25 of the parties hereto. No other person or entity shall have any right of action based upon the  
26 provisions of this Agreement.  
27  
28



1                   9. 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  
Riverside, CA 92501

CITY OF NORCO  
2870 Clark Avenue  
Norco, CA 92860

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

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

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

22 //

23 //

205465

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

RECOMMENDED FOR APPROVAL

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

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

ATTEST:

KECIA HARPER-IHEM  
Clerk of the Board

By   
NEAL R. KIPNIS  
Deputy County Counsel

By Karen Boston  
Deputy

(SEAL)

**CITY OF NORCO**

By \_\_\_\_\_  
ANDY OKORO  
City Manager

By \_\_\_\_\_  
KEVIN BASH  
Mayor

ATTEST:

By JOHN HARPER  
City Attorney

By \_\_\_\_\_  
CHERYL L. LINK  
City Clerk

(SEAL)

Funding Agreement – Norco Line NB-3  
6/15/16  
CSS:rlp

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

JUL 26 2016  
(to be filled in by the Clerk of the Board)

RECOMMENDED FOR APPROVAL

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

By JASON E. UHLEY  
General Manager-Chief Engineer

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

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By NEAL R. KIPNIS  
Deputy County Counsel

By Deputy

(SEAL)

RECOMMENDED FOR APPROVAL:

CITY OF NORCO

By ANDY OKORO  
City Manager

By KEVIN BASH  
Mayor

APPROVED AS TO FORM:

ATTEST:

By JOHN HARPER  
City Attorney

By CHERYL L. LINK  
City Clerk

(SEAL)

Funding Agreement – Norco Line NB-3  
6/15/16  
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