

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



ITEM
11.2
(ID # 4153)

MEETING DATE:
Tuesday, May 23, 2017

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approve Funding Agreement for Norco Minor Drainage Improvement Lateral N-1F; District 2; [Not-to-Exceed \$650,880]; District Funds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

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

ACTION:

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley
Nays: None
Absent: None
Date: May 23, 2017
xc: Flood

Kecia Harper-Ihem
Clerk of the Board

By: 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 650,880	\$ 0	\$ 650,880	\$ 0
NET DISTRICT COST	\$ 650,880	\$ 0	\$ 650,880	\$ 0
SOURCE OF FUNDS: 25120-947420-536200 Contribution to Non-County Agency – Zone 2			Budget Adjustment:	No
			For Fiscal Year:	16/17

C.E.O. RECOMMENDATION: APPROVE

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 Lateral N-1F 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 facility.

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

Impact on Residents and Businesses

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

SUPPLEMENTAL:

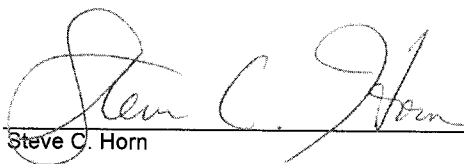
Additional Fiscal Information

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

ATTACHMENTS:

1. Vicinity Map
2. Funding Agreement

RKM:blm


Steve C. Horn

5/15/2017


Gregory L. Priamos, Director County Counsel

5/10/2017

FUNDING AGREEMENT
NORCO MINOR DRAINAGE IMPROVEMENT
LATERAL N-1F

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

RECITALS

A. CITY has prepared plans and specifications for the construction of an underground storm drain "Lateral N-1F" ("LATERAL N-1F"), as shown in concept in blue on Exhibit "A" attached hereto and made a part hereof; and

B. Associated with the construction of LATERAL N-1F is the construction of certain underground storm drain laterals that are 36 inches or less in diameter, inlets, outlets, catch basins and connector pipes located within CITY-held easements or rights of way, hereinafter called "APPURTENANCES"; and

C. Together, LATERAL N-1F and APPURTENANCES are hereinafter called "PROJECT"; and

D. PROJECT extends approximately 1,220 lineal feet north on Temescal Avenue from the existing Line N1 storm drain; and

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

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

G. 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

H. DISTRICT'S financial contributions shall be as follows:

MAY 23 2017 11.2

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

1. One hundred percent (100%) of the contract bid price ("BID PRICE");
2. One hundred percent (100%) of the cost related to the gas main relocation agreement ("UTILITY RELOCATION");

3. Together, BID PRICE and UTILITY RELOCATION are hereinafter called "TOTAL CAPITAL COST";

4. An additional ten percent (10%) of TOTAL CAPITAL COST paid in the event that the final PROJECT construction cost exceeds TOTAL CAPITAL COST (the "CONSTRUCTION CONTINGENCY"); and

5. An additional twenty percent (20%) of TOTAL CAPITAL COST to offset CITY'S costs associated with design, environmental permitting, surveying, contract administration and other typical ancillary costs related to the delivery of the facility ("ADDITIONAL CONTRIBUTION"); and

I. Together, TOTAL CAPITAL COST, CONSTRUCTION CONTINGENCY and ADDITIONAL CONTRIBUTION are hereinafter called "DISTRICT CONTRIBUTION". Total DISTRICT CONTRIBUTION for PROJECT shall not exceed a total of six hundred fifty thousand eight hundred eighty dollars (\$650,880); and

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

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

SECTION I

CITY shall:

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

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

3. CITY shall be solely responsible for complying with all applicable environmental programs and regulations including, but not limited to, the federal Clean Water Act (Sections 404 and 401), the National Flood Insurance Act (Section 1361(c)), the California Fish and Game Code (Section 1600) and the Western Riverside County Multi-Species Habitat Conservation Plan.

4. Order the relocation of all utilities within CITY rights of way which may conflict with the construction of PROJECT.

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

6. Prior to the award of the construction contract for PROJECT, submit an invoice to DISTRICT (Attention: Chief of Design and Construction) for the estimated cost of constructing PROJECT (equal to TOTAL CAPITAL COST plus ADDITIONAL CONTRIBUTION). The invoice shall be supported by a copy of CITY'S bid abstracts and UTILITY RELOCATION for PROJECT.

7. Construct PROJECT pursuant to a CITY administered public works contract.

8. Supervise and inspect all aspects of PROJECT construction.

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

3 10. Upon completion of PROJECT construction, provide DISTRICT with a copy
4 of CITY'S Notice of Completion along with its claim for any construction cost items in excess of
5 TOTAL CAPITAL COST.
6

7 SECTION II

8 DISTRICT shall:

9 1. Acting as a Responsible Agency, comply with the applicable provisions of
10 CEQA.

11 2. Within thirty (30) days of receiving of CITY'S Notice of Intent to award
12 PROJECT construction contract, pay CITY TOTAL CAPITAL COST plus ADDITIONAL
13 CONTRIBUTION.
14

15 3. Within thirty (30) days of CITY awarding PROJECT construction contract,
16 pay Riverside Conservation Agency the costs associated with the Multi-Species Habitat
17 Conservation Plan, which is either the lesser of i) three percent (3%) of the TOTAL CAPITAL
18 COST, or ii) three percent (3%) of TOTAL CAPITAL COST less the value of applicable project-
19 specific mitigation.
20

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

24 SECTION III

25 It is further mutually agreed:

26 1. DISTRICT CONTRIBUTION shall not exceed a total sum of six hundred
27 fifty thousand eight hundred eighty dollars (\$650,880) and shall be used by CITY solely for the
28 purpose of designing and constructing PROJECT as set forth herein. No additional funding

1 whatsoever shall be provided by DISTRICT for any subsequent PROJECT modifications,
2 extensions or repairs.

3 2. In the event the actual construction cost for PROJECT is less than the
4 TOTAL CAPITAL COST, CITY shall refund the difference to DISTRICT within thirty (30) days
5 of filing the Notice of Completion for PROJECT.
6

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

10 4. In the event that any claim or legal action is brought against DISTRICT, in
11 connection with this Agreement and based upon the actual or alleged acts or omissions of CITY,
12 its officers, employees, consultants, contractors or agents, including but not limited to claims or
13 legal action related to the design, construction, operation, maintenance or failure of PROJECT,
14 CITY shall defend, indemnify and hold DISTRICT harmless therefrom without cost to
15 DISTRICT. This shall include providing DISTRICT with legal representation and pay for related
16 costs for any such claim or legal action, and payment of any settlement or judgment on behalf of
17 DISTRICT, all at no cost to DISTRICT. Upon CITY'S failure to do so, DISTRICT shall be
18 entitled to recover from CITY all of its costs and expenses, including but not limited to reasonable
19 attorneys' fees.
20
21

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

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

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

4 8. Any and all notices sent or required to be sent to the parties of this Agreement
5 will be mailed by first class mail, postage prepaid, to the following addresses:
6

7 RIVERSIDE COUNTY FLOOD CONTROL
8 AND WATER CONSERVATION DISTRICT
9 1995 Market Street
10 Riverside, CA 92501
11 Attn: Design and Construction Division

CITY OF NORCO
2870 Clark Avenue
Norco, CA 92860
Attn: Sam Nelson

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

23 11. This Agreement is intended by the parties hereto as a final expression of their
24 understanding with respect to the subject matter hereof and as a complete and exclusive statement
25 of the terms and conditions thereof and supersedes any and all prior and contemporaneous
26 agreements and understandings, oral or written, in connection therewith. This Agreement may be
27 changed or modified only upon the written consent of the parties hereto.
28

//

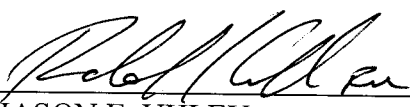
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

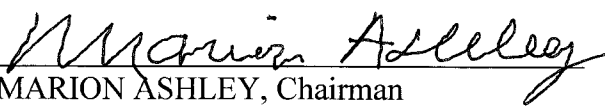
MAY 23 2017

(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

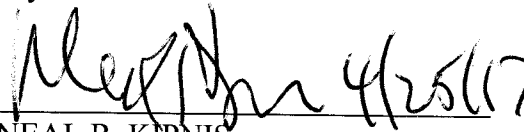
By 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

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)

Funding Agreement – Norco Lateral N-1F
RKM:blm
04/18/17

1 RECOMMENDED FOR APPROVAL:

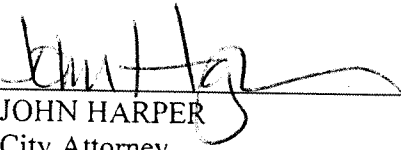
CITY OF NORCO

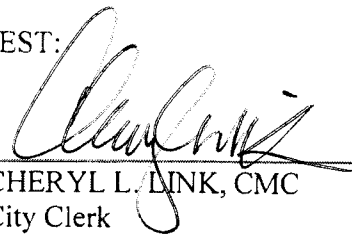
2
3 By 
4 ANDY OKORO
City Manager

By 
GREG NEWTON
Mayor

5
6 APPROVED AS TO FORM:

ATTEST:

7
8 By 
9 JOHN HARPER
City Attorney

By 
CHERYL L. LINK, CMC
City Clerk

10 (SEAL)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Funding Agreement – Norco Lateral N-1F
RKM:blm
04/18/17

Exhibit A

