



**SUBMITTAL TO THE BOARD OF DIRECTORS
RIVERSIDE COUNTY REGIONAL PARK
AND OPEN-SPACE DISTRICT
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
13.5
(ID # 7148)

MEETING DATE:
Tuesday, June 5, 2018

FROM : REGIONAL PARK & OPEN SPACE DISTRICT:

SUBJECT: REGIONAL PARK AND OPEN-SPACE DISTRICT: First Amendment to the Betterment Agreement with Orange County Flood Control District Concerning Funding of Certain Improvements to the Auxiliary Embankment of Prado Dam Associated with Future Development of the Santa Ana River Trail; District 2; [\$270,000]; 39% Coastal Conservancy Grant, 61% Western Riverside County Multipurpose Trails Fund; 4/5 Vote Required

RECOMMENDED MOTION: That the Board of Directors:

1. Approve the First (1st) Amendment to Betterment Agreement #MA-080-17012201 between the Riverside County Regional Park and Open-Space District (District) and Orange County Flood Control District (OC Flood); and
2. Authorize the Chairman of the Board to execute the Amendment on behalf of the District; and
3. Direct the Clerk of the Board to return four (4) copies of the executed Amendment to the District; and
4. Approve & Direct the Auditor-Controller to make the budget adjustments shown on Schedule A; and
5. Authorize the General Manager, or designee, to take all actions necessary to administer the Agreement and execute future ministerial amendments that do not fundamentally change the scope or intent of the original agreement.

ACTION: 4/5 Vote Required, Policy



Scott Bangle, Director General Manager / Park Director 5/23/2018

MINUTES OF THE BOARD OF DIRECTORS

On motion of Director Ashley, seconded by Director Perez 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: June 5, 2018
xc: Parks, Auditor

Kecia Harper-Ihem
Clerk of the Board

By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 270,000	\$ 0	\$620,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	0	\$ 0
SOURCE OF FUNDS: Coastal Conservancy Grant (39%) and Western Riverside County Multipurpose Trails Fund 30533 (61%)			Budget Adjustment:	Yes
			For Fiscal Year:	17/18

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The development and construction of the Santa Ana River Trail (SART) relies on the coordination and cooperation of many different agencies to ensure the impacts of the project are minimized, both financially and environmentally. This segment of trail is arguably, the most critical section of trail running along the top of the Auxiliary Embankment to the Prado Dam that is to be constructed by the Army Corp of Engineers (ACOE) on the behalf of OC Flood. In an attempt to reduce costs and minimize environmental impacts of a second construction project, the District has requested certain improvements be made to the Auxiliary Embankment to Prado Dam necessary for the trail improvements to be made for the Santa Ana River Trail. These improvements consist of an alternate maintenance and access ramp that could possibly, upon receipt of all requisite approvals, be modified by District in the future with installation of class 1 multi-use trail improvements.

On August 29, 2017 by M.O. 13.3, the District entered into Betterment Agreement #MA-080-17012201 with OC Flood. The cost of the improvements, including administration fees, was originally estimated at \$312,000. Grant funding was obtained by the District for a maximum amount of \$350,000, should the actual costs end up to be higher than the estimate. OC Flood was subsequently notified by ACOE that bids received for the project place total costs at \$620,000. The proposed amendment provide the necessary funding for the project to proceed.

Funding for these improvements will be provided to OC Flood by the District.

The Amendment has been approved as to form by County Counsel.

Impact on Citizens and Businesses

This amendment will speed up the timeline for completion of this phase of the SART.

Additional Fiscal Info:

On August 29, 2017, Minute Order 13.3 approved Agreement #MA-080-17012201 with an estimated cost of \$262,000 for a Betterment Deposit and \$50,000 for an Administrative Cost

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Deposit, for a total of \$312,000. The maximum cost stated in that Minute Order, \$350,000, was based on total grant funds that had been awarded to the District by the Coastal Conservancy for the project as of that date, and was \$38,000 higher than the costs stated in the Agreement. The additional \$38,000 was intended to act as a contingency reserve should actual project costs end up higher than estimated.

The Agreement Amendment currently presented for approval amends the Betterment Deposit to \$570,000, and the Administrative Cost Deposit remains as \$50,000. The total cost stated in the Agreement is now \$620,000, which is an increase of \$308,000 over the costs stated in the Original Agreement, and \$270,000 more than the approved maximum total cost of \$350,000 stated in the original Minute Order.

The \$308,000 increase in the total cost for the Agreement is being funded by the \$38,000 balance of available grant funds from the Coastal Conservancy as approved in the original Minute Order, \$105,000 in additional grant funds from the Coastal Conservancy for this project, and \$165,000 in Development Impact Fees – Western Riverside County Multipurpose Trails Fund 30533.

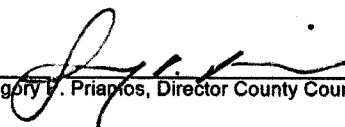
Attachments:

Amendment 1 to Agreement (MA-080-17012201)

Attachment A – Budget Adjustment


Sandy Armijo 5/24/2018


Rehini Basma, Principal Management Analyst 5/29/2018


Gregory F. Priapos, Director County Counsel 5/24/2018

ATTACHMENT A

First Amendment to the Betterment Agreement with Orange County Flood Control District Concerning Funding of Certain Improvements to the Auxiliary Embankment of Prado Dam Associated with Future Development of the Santa Ana River Trail; District 2; [\$270,000]; 39% Coastal Conservancy Grant, 61% Western Riverside County Multipurpose Trails Fund

Increase Appropriations for FY17-18:

33110- 931121- 523240	Non County Agency Expense	\$ 105,000
33120- 931800- 523240	Non County Agency Expense	\$ 165,000

Increase Estimated Revenue for FY17-18:

33110- 931121- 751680	CA-State Grant Revenue	\$ 105,000
33120- 931800- 790600	Contrib Fr Other County Funds	\$ 165,000

WHEN DOCUMENT IS FULLY EXECUTED RETURN

CLERK'S COPY

Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

Agreement No. MA-080-17012201

**FIRST AMENDMENT
TO
THE AGREEMENT MA-080-17012201
FOR BETTERMENT OF THE PRADO DAM AUXILIARY EMBANKMENT
IN RIVERSIDE COUNTY
By and Between
RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT
And
ORANGE COUNTY FLOOD CONTROL DISTRICT**

THIS FIRST AMENDMENT TO THE AGREEMENT MA-080-17012201 FOR BETTERMENT OF THE PRADO DAM AUXILIARY EMBANKMENT IN RIVERSIDE COUNTY ("First Amendment"), dated as of _____, 2018 is entered into by and between THE RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT ("Park District"), a body corporate and politic, and ORANGE COUNTY FLOOD CONTROL DISTRICT ("Flood District"), a body corporate and politic, sometimes collectively referred to herein as the "Parties".

RECITALS

A. The Park District and Flood District have entered into Agreement MA-080-17012201 for Betterment of the Prado Dam Auxiliary Embankment in Riverside County, dated August 22, 2017 (the "Original Agreement"), pursuant to which the Park District has agreed to provide funds for the Project to the Flood District, to be deposited in a BETTERMENT FUND. In return, Flood District will facilitate and pass through the funds from the Park District to the United States Army Corps of Engineers ("ACOE") to supplement the Prado Dam Auxiliary Embankment project with an alternate maintenance and access ramp that could possibly, upon receipt of requisite approvals, be modified by the Park District in the future with installation of class 1 multi-use trail improvements.

B. The Parties now desire to enter into this Amendment No. 1 to the Original Agreement to increase the amount of the Park District deposit.

NOW THEREFORE, in consideration of the foregoing and the mutual promises herein contained, the Parties agree as follows:

SECTION 1. Paragraph 5.a of the Original Agreement is hereby amended, in its entirety, to read as follows:

a. Upon FLOOD DISTRICT's request and based upon an engineer's estimate of BETTERMENT which shall include a portion of any associated right-of-way acquisition costs and expense to obtain regulatory and permit approvals specific to the

BETTERMENT, PARK DISTRICT shall provide to FLOOD DISTRICT an initial deposit of five hundred and seventy thousand dollars (\$570,000) ("BETTERMENT FUND") within thirty (30) calendar days. FLOOD DISTRICT shall manage this deposit as prescribed in Paragraph 6.a

SECTION 2. CONTINUING EFFECT. Except as amended or modified herein, all the terms of the Original Agreement, as previously amended, shall remain in full force and effect, provided that the provisions of this First Amendment shall prevail over any inconsistency or conflicting provisions of the Original Agreement, as previously amended.

SECTION 3. SEVERABILITY. If any provisions of this Second Amendment shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of this Second Amendment, and all such other provisions shall remain in full force and effect.

SECTION 4. INCORPORATION OF RECITALS. The recitals set forth above are true and correct and are incorporated by reference as though fully set forth herein.

SECTION 5. GOVERNING LAW. This Amendment shall be governed by the laws of the State of California. Venue shall be in Riverside County.

SECTION 6. COUNTERPARTS. This Second Amendment may be signed in counterparts, each of which shall constitute an original.

[Signatures on following page]

**SIGNATURE PAGE
TO
FIRST AMENDMENT TO THE AGREEMENT MA-080-17012201
FOR BETTERMENT OF THE PRADO DAM AUXILIARY EMBANKMENT
IN RIVERSIDE COUNTY**

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the dates written below.

RIVERSIDE COUNTY REGIONAL
PARK AND OPEN-SPACE DISTRICT

ORANGE COUNTY FLOOD CONTROL
DISTRICT

By: 
CHUCK WASHINGTON
Chairman, Board of Directors

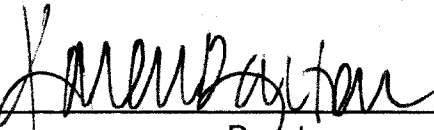
By: _____
Shane L. Silsby, Director
Pursuant Minute Order Dated August 22,
2017

Dated: JUN 05 2018

Dated: _____

ATTEST:

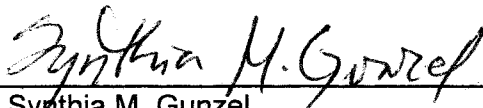
Kecia Harper-Ihem
Clerk of the Board

By: 
Deputy

(Seal)

APPROVED AS TO FORM:

Gregory P. Priamos
County Counsel

By: 
Cynthia M. Gunzel
Chief Deputy County Counsel

APPROVED AS TO FORM:

By: _____
Best Best & Krieger LLP
Counsel of Riverside County
Transportation Commission