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



11.2 (ID # 7784)

MEETING DATE:

Tuesday, August 28, 2018

.FROM: FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of the Cooperative Agreement between the Riverside County Flood Control and Water Conservation District and the City of Norco for Norco MDP Line NA-1, Stage 2, Norco MDP Lateral NA-1A, Stage 1, and Norco-Crestview Drive Debris Basin, Stage 1, Project Nos. 2-0-00155, 2-0-000156, and 2-0-00085, District 2. [Total Estimated Project Cost: \$4,920,033 – District Zone 2 Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

- 1. Approve the Cooperative Agreement between the Riverside County Flood Control and Water Conservation District (District) and the City of Norco (City);
- 2. Authorize the Chairman to execute the Cooperative Agreement documents on behalf of the District; and
- 3. Direct the Clerk of the Board to return two (2) copies of the executed Cooperative Agreement to the District.

Jason Uhley 8/16/2018

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes:

ACTION: Policy

Jeffries, Tavaglione, Washington, Perez and Ashley

Nays:

None

Absent:

None

Date:

August 28, 2018

XC:

Flood

11.

Kecia Harper-Ihem

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FINANCIAL DATA	Current Fisca	ıl Year:	Next Fiscal	Year:	Total Cost:		Ongoin	g Cost	
COST	\$3,341,131 \$1,578,902		\$4,920,033			\$	0		
NET COUNTY COST	\$	0	\$	0	\$	0		\$	0
SOURCE OF FUNDS Construction (Infrastruction)			48200 Zone	∋ 2	Budg	jet Adjus	stment: N	10	
					For F	iscal Ye	ar: 18/19	- 19	20

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

This Cooperative Agreement sets forth the terms and conditions by which the District will design and construct certain flood control facilities within the Norco Master Drainage Plan. The flood control facilities will be constructed in two phases. Line NA-1, Stage 2 and Lateral NA-1A, Stage 1 would be constructed first, and the Crestview Debris Basin constructed later with a separate construction contract. The Cooperative Agreement is necessary for the City to grant the District the necessary rights to access, inspect, construct, operate and maintain the project within City rights of way and establishes the terms for the City to reimburse the District for most of the street paving cost.

Upon completion of the respective construction contracts, the District will assume ownership and responsibility for the operation and maintenance of Norco MDP Line NA-1, Stage 2 and the Crestview Debris Basin. The City will assume ownership and responsibility for the operation and maintenance of Lateral NA-1A, the curb and gutter, catch basins, inlets, laterals and connector pipes.

A Notice of Exemption was prepared by the District and adopted for the project by the Board of Supervisors on February 27, 2018 (Agenda Item No. 11.1, MT Item No. 6216). No further environmental review is warranted for the project at this time.

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

Prev. Agn. Ref.: MT#6216 11.1 of 02/27/18

Impact on Residents and Businesses

This project is funded by ad valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to residents and businesses. *Upon construction completion, this project will improve flood protection for the area, reduce mud/debris issues and improve traffic safety during periods of flooding.

Additional Fiscal Information

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

The District is funding all design, construction and construction inspection costs for the flood control facilities, which is estimated to cost \$4,920,033. The City will reimburse the District for most of the street paving cost. Sufficient funding is available in the District's Zone 2 budget for FY 2018-19 and will be included in the proposed budget in future years as appropriate. Future operations and maintenance costs associated with the mainline storm drain will accrue to the District.

Project Fund	ling Summary		
Norco MDP	Line NA-1, Stage 2	Crestview D	ebris Basin
\$2,341,131	Fiscal Year 18/19 Project Appropriation	\$1,000,000	Fiscal Year 18/19 Project Appropriation
\$ 282,458	Fiscal Years 19/20 Estimated Project Appropriation	\$1,296,444	Fiscal Years 19/20 Estimated Project Appropriation
\$2,623,589	Total Estimated Project Cost	\$2,296,444	Total Estimated Project Cost

ATTACHMENTS:

- 1. Vicinity Map
- 2. Cooperative Agreement

AMR:blm P8/222035

Gregory V. Priapios, Director County Counsel 8/16/2018

COOPERATIVE AGREEMENT

Norco MDP Line NA-1, Stage 2 Norco MDP Lateral NA-1A, Stage 1 Norco – Crestview Drive Debris Basin, Stage 1 Project Nos. 2-0-00155, 2-0-000156 and 2-0-00085

The Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and the City of Norco, a municipal corporation ("CITY"), hereby enter into this Cooperative Agreement ("Agreement") and agree as follows:

RECITALS

- A. DISTRICT has budgeted for and plans to construct certain flood control facilities to provide necessary flood control and drainage improvements for certain areas within CITY; and
- B. These certain flood control facilities are identified in DISTRICT's Norco Master Drainage Plan ("MDP"), as shown in concept on Exhibit "A", attached hereto and made a part hereof, and as shown on DISTRICT's Drawing Nos. 2-0452 and 2-0485, generally consisting of the following segments:
- (i) Norco MDP Line NA-1, Stage 2 District proposes to remove 525 lineal feet of CITY's existing 42-inch reinforced concrete pipe along the project alignment within Crestview Drive and construct approximately 1,840 lineal feet of underground reinforced concrete pipe (RCP) ranging from 30-inches to 54-inches, along Crestview Drive between the terminus of District's existing Norco MDP Line NA-1, Stage 1 facility and the proposed debris basin described in item (ii) below. Norco MDP Line NA-1, Stage 2 is hereinafter called "DISTRICT DRAINAGE FACILITY"; and
- (ii) Crestview Drive Debris Basin, Stage 1 DISTRICT proposes to construct a debris basin located southeast of the intersection of Seventh Street and Crestview Drive along the foot of the La Sierra Hills ("DEBRIS BASIN"). DEBRIS BASIN will require

additional right-of-way necessary for the construction, operation and maintenance of DEBRIS BASIN. Therefore, construction of DEBRIS BASIN will not commence until DISTRICT has acquired all rights, title and interest in real property for DEBRIS BASIN; and

- C. Associated with the construction of DISTRICT DRAINAGE FACILITY is the construction of various catch basins, inlets, laterals, connector pipes and storm drains that are thirty-six inches (36") or less in diameter, located within CITY rights of way, hereinafter called "APPURTENANCES". Any storm drain pipes thirty-six inches or less in diameter that are part of DISTRICT DRAINAGE FACILITY mainline along Crestview Drive are excluded from APPURTENANCES; and
- D. CITY desires DISTRICT to include as a part of its construction contract for DISTRICT DRAINAGE FACILITY certain street paving improvements ("STREET PAVING"), as shown in concept in red and blue on Exhibit "B", attached hereto and made apart hereof; and
- E. DISTRICT and CITY agree to equally share the actual cost of the portion of STREET PAVING shown in red on Exhibit B, therefore CITY is willing to reimburse DISTRICT for fifty percent (50%) of the lowest responsible construction contract bid price for the portion of STREET PAVING shown in red on Exhibit B ("STREET PAVING CONTRIBUTION"); and
- F. CITY is willing to reimburse DISTRICT for one hundred percent (100%) of the lowest responsible construction contract bid price for the portion of STREET PAVING shown in blue on Exhibit B ("ADDITIONAL STREET PAVING PAYMENT"), plus any cost associated with STREET PAVING resulting from contract change orders requested by CITY (STREET PAVING CHANGE ORDERS"). Together, STREET PAVING CONTRIBUTION, ADDITIONAL STREET PAVING PAYMENT and STREET PAVING CHANGE ORDERS are collectively referred to as "CITY CONTRIBUTION"; and

- G. DISTRICT is willing to include STREET PAVING as part of its public works construction contract; and
- H. Together, APPURTENANCES and STREET PAVING are called "CITY FACILITIES"; and
- I. Altogether, DISTRICT DRAINAGE FACILITY and CITY FACILITIES are hereinafter called "PROJECT"; and
- J. DISTRICT and CITY acknowledge it is in the best interest of the public to proceed with the construction of PROJECT and DEBRIS BASIN at the earliest possible date; and
- K. The purpose of this Agreement is to memorialize the mutual understandings by and between DISTRICT and CITY with respect to design, construction, inspection, ownership, financial contributions and operation and maintenance of PROJECT and DEBRIS BASIN.

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

SECTION I

DISTRICT shall:

- 1. Pursuant to the California Environmental Quality Act (CEQA), act as Lead Agency and assume responsibility for preparation, circulation and adoption of all necessary and appropriate CEQA documents pertaining to the construction, operation and maintenance of PROJECT and DEBRIS BASIN.
- 2. Prepare, or cause to be prepared, plans and specifications for PROJECT and DEBRIS BASIN ("IMPROVEMENT PLANS"), in accordance with applicable DISTRICT and CITY standards.

- 3. Obtain, at its sole cost and expense, all necessary rights of way, rights of entry and temporary construction easements as may be necessary to construct, inspect, operate and maintain DISTRICT DRAINAGE FACILITY and DEBRIS BASIN.
- 4. Secure, at its sole cost and expense, all necessary permits, approvals, licenses or agreements required by any Federal or State resource or regulatory agencies pertaining to the construction of PROJECT and DEBRIS BASIN and operation and maintenance of DISTRICT DRAINAGE FACILITY and DEBRIS BASIN.
- 5. Prior to advertising PROJECT and DEBRIS BASIN for public works construction contract bids, submit IMPROVEMENT PLANS to CITY for its review and approval, as appropriate.
- 6. Advertise, award and administer a public works construction contract for PROJECT and DEBRIS BASIN.
- 7. Within thirty (30) days of awarding PROJECT construction contract, pay the Western Riverside County Regional Conservation Agency the costs associated with the Multiple Species Habitat Conservation Plan, which is either the lesser of three percent (3%) of the lowest bid price or three percent (3%) of the contract bid price, less the value of the applicable project specific mitigation.
- 8. Within thirty (30) days of awarding DEBRIS BASIN construction contract, pay the Western Riverside County Regional Conservation Agency the costs associated with the Multiple Species Habitat Conservation Plan, which is either the lesser of three percent (3%) of the lowest bid price or three percent (3%) of the contract bid price, less the value of the applicable project specific mitigation.
- 9. Provide CITY with written notice that DISTRICT has awarded a construction contract for PROJECT and DEBRIS BASIN.

- 10. Prior to commencing PROJECT and DEBRIS BASIN construction, schedule and conduct a pre-construction meeting between DISTRICT, CITY and other affected entities. DISTRICT shall notify CITY at least twenty (20) days prior to conducting the pre-construction meeting.
- 11. Furnish CITY, at the time of providing written notice for the preconstruction meeting as set forth in Section I.10., with a construction schedule which shall show the order and dates in which DISTRICT or DISTRICT's contractor proposes to carry on the various parts of work, including estimated start and completion dates.
- 12. Construct or cause to be constructed, PROJECT and pay its respective shared costs associated herewith.
- 13. Construct or caused to be constructed, DEBRIS BASIN upon acquisition of all rights, title and interest to the real property.
- 14. Inspect or cause to be inspected, construction of PROJECT and DEBRIS BASIN.
- 15. Require its construction contractor(s) to comply with all Cal/OSHA safety regulations including regulations concerning confined space and maintain a safe working environment for all DISTRICT and CITY employees on the site.
- 16. Require its construction contractor(s) to include CITY as an additional insured under the liability insurance coverage for PROJECT and DEBRIS BASIN, and also require its construction contractor(s) to include CITY as a third party beneficiary of any and all warranties of the contractor's work with regard to CITY FACILITIES.
- 17. Within two (2) weeks of completing PROJECT construction, provide CITY with written notice that PROJECT construction is substantially complete and requesting that CITY conduct a final inspection of CITY FACILITIES.

- 18. Within two (2) weeks of completing DEBRIS BASIN construction, provide CITY with written notice that DEBRIS BASIN construction is substantially complete and requesting that CITY conduct a final inspection of DEBRIS BASIN.
- 19. Keep an accurate accounting of all PROJECT construction costs and include this final accounting when invoicing CITY for CITY CONTRIBUTION. The final accounting of construction costs shall include a detailed breakdown of all costs, including but not limited to DISTRICT's costs associated with administering the construction contract, payment vouchers, CITY-approved change orders and other such construction contract documents as may be necessary, to establish the actual cost of construction.
- 20. Upon completion and acceptance of STREET PAVING construction by CITY, invoice CITY for CITY CONTRIBUTION
- 21. Upon DISTRICT's acceptance of PROJECT and DEBRIS BASIN construction as complete, provide CITY with a copy of DISTRICT's Notice of Completion.
- 22. Upon CITY's acceptance of CITY FACILITIES for ownership, operation and maintenance, provide CITY with a reproducible duplicate set of "record drawings" of PROJECT plans.
- 23. Accept ownership and sole responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITY and DEBRIS BASIN.
- 24. Ensure that all work performed pursuant to this Agreement by DISTRICT, its agents or contractors is done in accordance with all applicable laws and regulations, including but not limited to all applicable provisions of the Labor Code, Business and Professions Code, and Water Code. DISTRICT shall be solely responsible for all costs associated with compliance with applicable laws and regulations.

SECTION II

CITY shall:

- 1. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
- 2. Review and approve, as appropriate, IMPROVEMENT PLANS prior to DISTRICT's advertising PROJECT and DEBRIS BASIN for construction bids.
- 3. Obtain, at its sole cost and expense, all necessary permanent and temporary easements for APN 168-060-002 as may be necessary to construct, inspect, operate and maintain the improvements shown on Sheet 6 of DISTRICT's Drawing No. 2-0452.
- 4. Grant DISTRICT, by execution of this Agreement, all rights necessary to construct, inspect, operate and maintain PROJECT and DEBRIS BASIN within CITY rights of way or easements.
- 5. Issue, at no cost to DISTRICT or DISTRICT's contractor, the necessary encroachment permit(s) required to construct PROJECT and DEBRIS BASIN.
- 6. Order the relocation of all utilities installed by permit or franchise within CITY rights of way which conflict with the construction of PROJECT and DEBRIS BASIN and which must be relocated at the utility owner's expense.
- 7. Order the relocation of all CITY owned utilities within CITY rights of way which conflict with the construction of PROJECT and DEBRIS BASIN and which must be relocated at CITY's expense.
- 8. Inspect PROJECT and DEBRIS BASIN construction for quality control purposes at its sole cost, but provide any comments to DISTRICT personnel who shall be solely responsible for all quality control communications with DISTRICT's contractor(s) during the construction of PROJECT and DEBRIS BASIN.

- 9. Upon receipt of DISTRICT's written notice that PROJECT and DEBRIS BASIN construction is substantially complete as set forth in Section I.17 and 1.18, conduct a final inspection of CITY FACILITIES and DEBRIS BASIN.
- 10. Pay, DISTRICT within thirty (30) days after receipt of DISTRICT's invoice, as set forth in Section I.20, for CITY CONTRIBUTION.
- 11. Accept ownership and sole responsibility for the operation and maintenance of CITY FACILITIES upon receipt of DISTRICT's Notice of Completion as set forth in Section I.21.
- 12. Assume sole responsibility for the operation and maintenance of STREET PAVING located within CITY rights of way, including any necessary future modifications or corrections as deemed necessary by CITY for the continuing function, reconstruction, repair or operation and maintenance of STREET PAVING and assumes all liability in conjunction with the public's use including claims of third persons for injury or death or damage to property.
- 13. Upon DISTRICT acceptance of PROJECT construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY rights of way and jurisdiction which must be performed at such time(s) that the finished grade along and above the underground portions of PROJECT are improved, repaired, replaced or changed. It being further understood and agreed that any such adjustments shall be performed at no cost to DISTRICT.
- 14. Upon DISTRICT acceptance of DEBRIS BASIN construction as being complete, accept sole responsibility for the adjustment of all DEBRIS BASIN manhole rings and covers located within CITY rights of way and jurisdiction which must be performed at such time(s) that the finished grade along and above the underground portions of DEBRIS BASIN are

improved, repaired, replaced or changed. It being further understood and agreed that any such adjustments shall be performed at no cost to DISTRICT.

SECTION III

It is further mutually agreed:

- 1. STREET PAVING shall, at all times, remain solely owned by and the exclusive responsibility of CITY. Nothing herein shall be construed as creating any obligation or responsibility on the part of DISTRICT to operate, maintain or warranty STREET PAVING.
- 2. Except as otherwise provided herein, all construction work involved with PROJECT, and DEBRIS BASIN, shall be inspected by DISTRICT and CITY, and shall not be deemed complete until approved and accepted as complete by DISTRICT.
- 3. In the event CITY desires to include any additional work as part of the PROJECT and DEBRIS BASIN, CITY shall submit a written request to DISTRICT describing the additional work desired and agree to pay DISTRICT for any agreed upon work requested. Payment for CITY requested additional work shall be based upon actual quantities of materials installed at the contract unit prices bid or at the negotiated change order prices.
- 4. DISTRICT and CITY each pledge to cooperate in regard to the operation and maintenance of their respective facilities as set forth herein and to discharge their respective maintenance responsibilities in an expeditious fashion so as to avoid the creation of any nuisance condition or undue maintenance impact upon the others' facilities.
- 5. DISTRICT shall indemnify, defend, save and hold harmless CITY (including its officers, 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 relating to DISTRICT's (including its officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives,

independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death (c)

payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.

6. CITY shall indemnify, defend, save and hold harmless DISTRICT (including its 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 relating to CITY's (including its officers, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this

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

Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)

payment of attorney's fees; or (d) any other element of any kind or nature whatsoever.

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

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT 1995 Market Street Riverside, CA 92501

Attn: Design II Section

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

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

- 10. This Agreement is to be construed in accordance with the laws of the State of California.
- 11. DISTRICT and CITY shall not assign this Agreement without the written consent of the other parties.
- 12. Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereto waive all provisions of law providing for a change of venue in such proceedings to any other county.
- 13. This Agreement is the result of negotiations between the parties hereto, and the advice and assistance of their respective counsel. The fact that this Agreement was prepared as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT prepared this Agreement in its final form.
- 14. Any waiver by DISTRICT or CITY, or any breach by any other party of any provision of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or any other provision hereof. Failure on the part of DISTRICT or CITY to require from any other party exact, full and complete compliance with any of the provisions of this Agreement shall not be construed as in any manner changing the terms hereof, or stopping DISTRICT or CITY from enforcing this Agreement.
- 15. This Agreement is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral and written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on AUG 28 2018

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

JASON E. UHLEY

General Manager-Chief Engineer

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

MARION ASHLEY, Chairman

Riverside County Flood Control and Water Conservation District Board of Supervisors

APPROVED AS TO FORM:

GREGORY P. PRIAMOS

County Counsel

KRISTINE BELL-VALDEZ

Deputy County Counsel

ATTEST:

KECIA HARPER-IHEM

Clerk of the Board

(SEAL)

Cooperative Agreement: City of Norco Norco MDP Line NA-1, Stage 2 Norco MDP Lateral NA-1A, Stage 1 Norco – Crestview Drive Debris Basin, Stage 1 Project Nos. 2-0-00155, 2-0-000156 and 2-0-00085 07/31/18 AMR:blm RECOMMENDED FOR APPROVAL:

CITY OF NORGO

By /alj

ANDY OKORO City Manager By TED HOFFMAN

Mayor

APPROVED AS TO FORM:

ATTEST:

JOHN R. HARPER

JOHN R. HARPER City Attorney By _______CHERYL L. AIN

City Clerk

(SEAL)

Cooperative Agreement: City of Norco Norco MDP Line NA-1, Stage 2 Norco MDP Lateral NA-1A, Stage 1 Norco – Crestview Drive Debris Basin, Stage 1 Project Nos. 2-0-00155, 2-0-000156 and 2-0-00085 07/31/18 AMR:blm



