

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



ITEM
11.4
(ID # 8507)

MEETING DATE:

Tuesday, December 11, 2018

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approve Funding Agreement for Norco Minor Drainage Improvements Norco MDP Line N-1C, CEQA Exempt, District 2. [Not-to-Exceed \$963,838 - District Zone 2 Funds 100%] (CLERK TO POST NOTICE)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15301(b), 15303(d) and 15304(f); and
2. Approve the Funding Agreement between the Riverside County Flood Control and Water Conservation District (District) and the City of Norco (City); and
3. Authorize the Chairman to execute the Funding Agreement documents on behalf of the District; and
4. Direct the Clerk of the Board to file the Notice of Exemption within five (5) days of approval by this Board; and
5. Direct the Clerk of the Board to return two (2) fully executed originals to the District.

ACTION: Policy

Jason Uhley

11/26/2018

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Ashley 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: December 11, 2018
xc: Flood, Recorder

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	\$ 963,838	\$ 0	\$ 963,838	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: 25120-947420-536200 Contribution Non-County Agency Zone 2 (97%); 25120-947420-523220 License and Permits Zone 2 (3%)			Budget Adjustment:	No
			For Fiscal Year:	2018 / 2019

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Funding Agreement (Agreement) sets forth the terms and conditions by which the District will contribute up to nine hundred forty-two thousand ninety-seven dollars (\$942,097) in funding to the City of Norco (City) for the construction of Norco MDP Line N-1C (Project) as part of a 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.

California Environmental Quality Act (CEQA) Findings

Pursuant to CEQA, the Project was reviewed and determined to be categorically exempt from CEQA pursuant to State Guidelines Sections 15301(b) for existing facilities, 15303(d) for construction of public facilities and 15304(f) for minor alterations to land. The Agreement is between public agencies to provide funding, rights and responsibilities involving certain minor improvements, including storm drain pipe, curb inlets and catch basins within Pedley Avenue. The State CEQA Guidelines provide this exemption based on the general rule that CEQA only applies to projects with the potential to cause a significant effect on the environment. With certainty, there is no possibility that the proposed Project will have a significant effect on the environment.

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. The storm drain improvements will capture runoff on Pedley Avenue and Greentree Road to alleviate flooding to existing homes on the east and west side of Pedley Avenue.

Additional Fiscal Information

Engineer's Estimated Project Cost

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

\$724,690	Estimated Bid Price
<u>\$144,938</u>	<u>Additional Contribution – 20%</u>
\$869,628	Construction Contribution
<u>\$ 72,469</u>	<u>Construction Contingency – 10%</u>
\$942,097	Total District Contribution to City
<u>\$ 21,741</u>	<u>Multiple Species Habitat Conservation Plan Mitigation Fee</u>
\$963,838	Total Estimated Project Cost

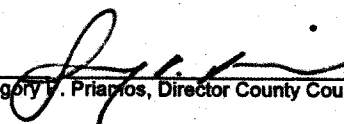
The District is providing up to \$942,097 in funding to City for project construction. Sufficient funds are available in the District's Zone 2 budget for FY 2017-2018, and will be included in the proposed budget in the future years as appropriate. Future operations and maintenance costs associated with the project will accrue to the City.

Pursuant to the Implementing Agreement for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) executed on June 22, 2004, the District is a participating agency. The District is making a payment to the Western Riverside County Regional Conservation Authority (RCA) for up to 3% of the total capital costs as required mitigation for the construction of flood control facilities in cooperation with and on behalf of the City. The MSHCP mitigation fee is based on the engineers estimated project cost, however, the actual 3% payment will be based on the project's lowest responsive contract bid price. The actual mitigation payment that will be made by the District may be reduced based on acquisition of replacement habitat for the benefit of Covered Species, as defined in the Implementing Agreement and the MSHCP.

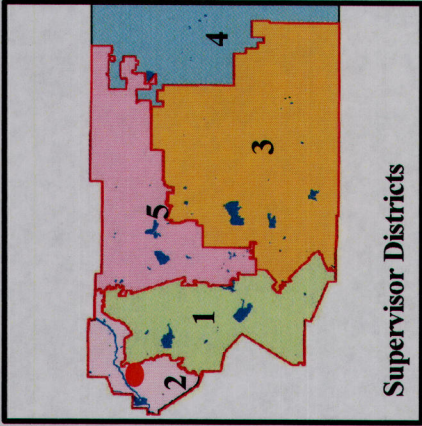
ATTACHMENTS:

1. Vicinity Map
2. Funding Agreement
3. Notice of Exemption and Authorization to Bill

TRI:cw
P8/220696



Gregory V. Priaplos, Director County Counsel 11/26/2018

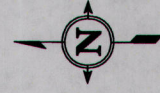


LEGEND:

- Project Vicinity
- Supervisorial District

DESCRIPTION:

Norco MDP Line N-1C



Vicinity Map

FUNDING AGREEMENT
Norco Minor Drainage Improvements
Norco MDP Line N-1C

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 Funding Agreement ("Agreement") and agree as follows:

RECITALS

- A. CITY has prepared plans and specifications ("IMPROVEMENT PLANS") for the construction of certain storm drain improvements as part of its Norco Master Drainage Plan ("MDP") Line N-1C Improvements project ("LINE N-1C"), including the construction of various size storm drain pipe and new storm drain catch basins as shown in concept in red on Exhibit "A" attached hereto and made a part hereof; and
- B. LINE N-1C is hereinafter called "CITY FACILITY"; and
- C. Associated with the construction of CITY FACILITY is the construction of certain underground connector pipes, inlets, outlets, curb and gutter, catch basins and connector pipes located within CITY held easements or rights of way, hereinafter called "APPURTENANCES"; and
- D. Together, CITY FACILITY and APPURTENANCES are hereinafter called "PROJECT"; and
- E. PROJECT extends approximately 1,460 lineal feet southerly along Pedley Avenue at 7th Street and continue easterly through private property approximately 690 lineal feet to the westerly terminus of Greentree Road; and
- F. CITY plans to advertise, award and administer a public works construction contract for PROJECT during Fiscal Year 2018/19; and

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

H. DISTRICT has reviewed IMPROVEMENT PLANS.

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

J. DISTRICT's financial contributions shall be as follows:

1. Up to one hundred percent (100%) of the lowest responsive and responsible bid contract amount for the construction of PROJECT ("BID PRICE");

2. Up to an additional twenty percent (20%) of BID PRICE to offset CITY's costs associated with environmental permitting, surveying, contract administration and other typical ancillary costs related to the delivery of the facility ("ADDITIONAL CONTRIBUTION"); and

3. Up to an additional ten percent (10%) of BID PRICE paid in the event that the final PROJECT construction cost exceeds BID PRICE ("CONSTRUCTION CONTINGENCY"); and

K. Altogether, BID PRICE and ADDITIONAL CONTRIBUTION are hereinafter called "ESTIMATED CONSTRUCTION COST"; and

L. Altogether, ESTIMATED CONSTRUCTION COST and CONSTRUCTION CONTINGENCY are hereinafter called "TOTAL DISTRICT CONTRIBUTION". TOTAL DISTRICT CONTRIBUTION for PROJECT shall not exceed a total of nine hundred forty-two thousand ninety-seven dollars (\$942,097); and

M. DISTRICT wishes to provide only financial assistance to CITY and have no other role; and

N. The purpose of this Agreement is to memorialize the mutual understandings by and between CITY and DISTRICT with respect to the construction, ownership, operation and maintenance of PROJECT and the payment of TOTAL 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. 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.
2. Obtain, at its sole cost and expense, all necessary permits, approvals or agreements required by any federal, state and local resource or regulatory agencies pertaining to PROJECT ("REGULATORY PERMITS").
3. 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.
4. 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 PROJECT plans, specifications, bid documents and any subsequent addenda thereto.
5. Prior to the award of the construction contract for PROJECT, submit an invoice to DISTRICT (Attention: Chief of Planning) for ESTIMATED CONSTRUCTION COST. The invoice shall be supported by a copy of CITY's bid abstracts for PROJECT.
6. Order the relocation of all utilities within CITY rights of way which may conflict with the construction of PROJECT.

7. Construct or cause to be constructed PROJECT pursuant to a CITY administered public works contract in accordance with IMPROVEMENT PLANS.
8. Supervise and inspect all aspects of PROJECT construction.
9. Upon completion of PROJECT construction and CITY's acceptance thereof, accept ownership and sole responsibility for the design, operation and maintenance of PROJECT.
10. Upon completion of PROJECT construction, provide DISTRICT with a copy of CITY's Notice of Completion.
11. Upon completion of PROJECT construction, provide DISTRICT with its claim for any construction cost items in excess of BID PRICE, not to exceed CONSTRUCTION CONTINGENCY, for DISTRICT review.

SECTION II

DISTRICT shall:

1. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA for PROJECT.
2. Within forty-five (45) days of receiving of CITY's appropriate invoice, pay ESTIMATED CONSTRUCTION COST to CITY.
3. Within thirty (30) days of CITY 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 (i) three percent (3%) of BID PRICE, or (ii) three percent (3%) of BID PRICE, less the value of applicable project-specific mitigation.
4. Within forty-five (45) days of receiving of CITY's claim for increased construction costs, pay any DISTRICT-approved outstanding claim from CONSTRUCTION CONTINGENCY.

SECTION III

It is further mutually agreed:

1. Notwithstanding any other provision herein this agreement TOTAL DISTRICT CONTRIBUTION shall not exceed a total sum of nine hundred forty-two thousand ninety-seven dollars (\$942,097) and shall be used by CITY solely for the purpose of constructing PROJECT as set forth herein. No additional funding whatsoever shall be provided by DISTRICT for any subsequent PROJECT modifications, extensions or repairs.

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

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

4. CITY shall indemnify, defend, save and hold harmless DISTRICT and the County of Riverside (including their agencies, 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 relating to CITY's (including its officers, elected and appointed officials, employees, agents, representatives, independent contractors and subcontract) 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 fees; or (d) any other element of any kind or nature whatsoever. This section shall survive any termination of this agreement until the statute of limitations period has run for any claims that could be asserted under this agreement.

5. 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.

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

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 of action based upon the provisions of this Agreement.

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: Planning Division

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

9. 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.

10. Any waiver by DISTRICT or CITY of 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 estopping DISTRICT or CITY from enforcing this Agreement.

11. The obligations of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for DISTRICT's financial contribution towards PROJECT as set forth herein. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CITY in writing. AGREEMENT shall be deemed terminated and have no further force and effect immediately upon receipt of DISTRICT's notification by CITY.

12. 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 or written, in connection therewith. This Agreement may be changed or modified only upon the written consent of the parties hereto.

13. No alternation or variation of the terms of this Agreement shall be valid unless made in writing and signed by both parties and no oral understanding or agreement not incorporated herein shall be binding on either party hereto.

14. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this.

//

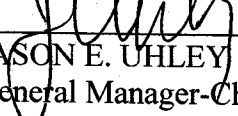
//

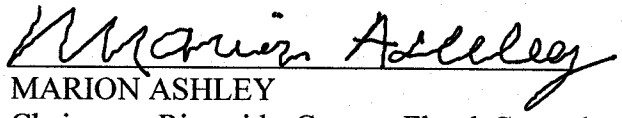
IN WITNESS WHEREOF, the parties hereto have executed this Cooperative Agreement on

DEC 11 2018
(to be filled in by 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

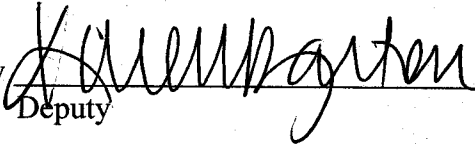
APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 
KRISTINE BELL-VALDEZ
Deputy County Counsel

By 
Deputy

(SEAL)

Funding Agreement w/ City of Norco for Minor Drainage Improvements
Norco MDP Line N-1C
05/02/18
TRI:cw

RECOMMENDED FOR APPROVAL:

CITY OF NORCO

By

TED HOFFMAN
Mayor

APPROVED AS TO FORM:

ATTEST:

By

JOHN HARPER
City Attorney

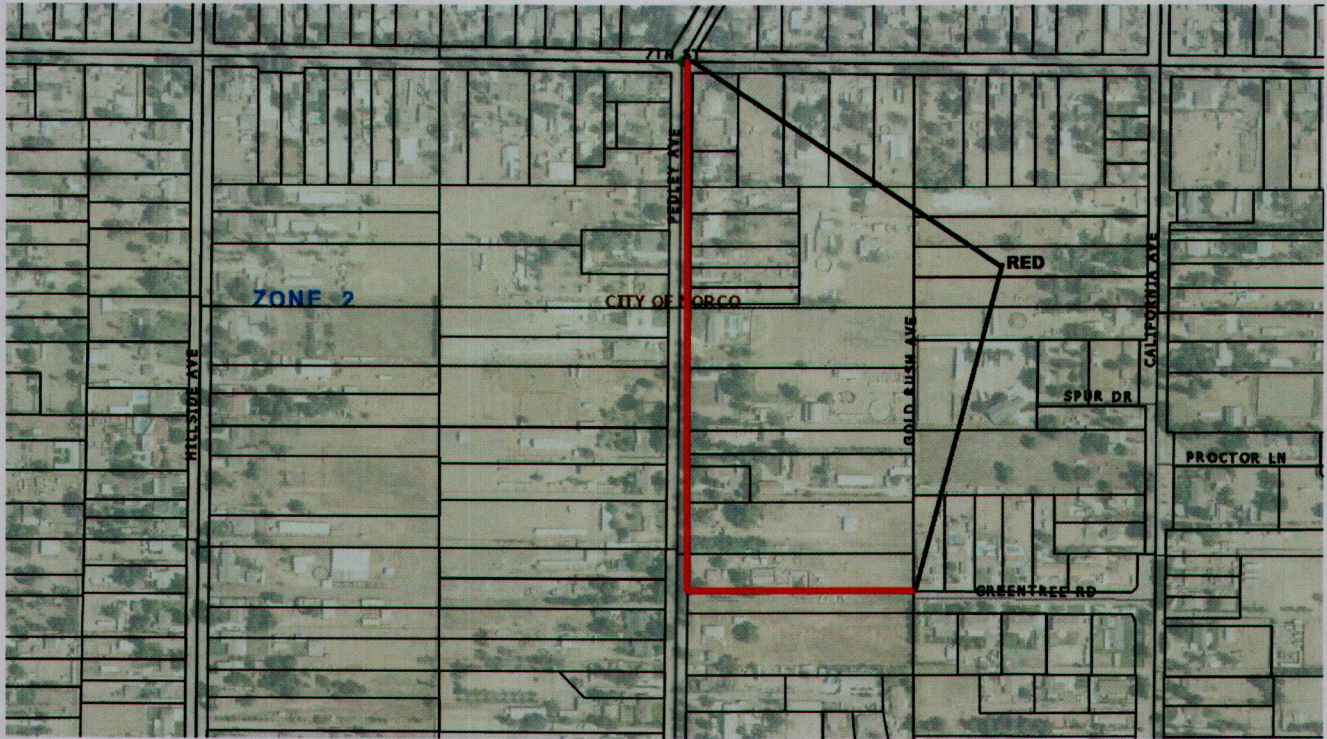
By

CHERYL L. LINK, CMC
City Clerk

(SEAL)

Funding Agreement w/ City of Norco for Minor Drainage Improvements
Norco MDP Line N-1C
05/02/18
TRI:cw

Exhibit A



FUNDING AGREEMENT
Norco Minor Drainage Improvements
Norco MDP N-1C

RIVERSIDE COUNTY CLERK-RECORDER

AUTHORIZATION TO BILL

TO BE FILLED OUT BY SUBMITTING AGENCY

DATE: 6/14/2018 BUSINESS UNIT/AGENCY: FLOOD CONTROL - FCARC

ACCOUNTING STRING:

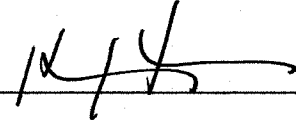
ACCOUNT: 526410 FUND: 25120
DEPT ID: 947420 PROGRAM: _____

AMOUNT: \$50.00

REF: CDFW Filing Fees CEQA Notice of Exemption for Norco MDP Line N-1C Ext Funding Agreement. Project No. 222-2-6-00840-00-00-0000-922

THIS AUTHORIZES THE COUNTY CLERK & RECORDER TO ISSUE AN INVOICE FOR PAYMENT OF ALL DOCUMENTS INCLUDED.

NUMBER OF DOCUMENTS INCLUDED: 1

AUTHORIZED BY: Karinne Hansen Ext 54330 
PRESENTED BY: Drew Marshall Ext 54643
CONTACT: Joan Valle Ext 58856

TO BE FILLED OUT BY COUNTY CLERK

ACCEPTED BY: _____

DATE: _____

DOCUMENT NO(S)/INVOICE NO(S): _____
