

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



ITEM: 11.1
(ID # 12070)

MEETING DATE:
Tuesday, May 19, 2020

FROM: FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of the Amended and Restated Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District and the City of San Jacinto for San Jacinto River, Stage 4, Project No. 4-0-00020-04, District 3. [\$869,219 - District Zone 4 Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the Amended and Restated Cooperative Agreement for the San Jacinto River, Stage 4 project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3), the General Rule Exemption;
2. Approve the Amended and Restated Cooperative Agreement between the Riverside County Flood Control and Water Conservation District (District) and the City of San Jacinto (City);
3. Authorize the Chairwoman to execute the Amended and Restated Cooperative Agreement documents on behalf of the District; and
4. Direct the Clerk of the Board to return three (3) fully executed originals to the District.

ACTION: Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

5/4/2020

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: May 19, 2020
xc: FLOOD

Kecia R. Harper
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	\$869,219	\$0	\$869,219	\$0
NET COUNTY COST	\$0	\$0	\$0	\$0
SOURCE OF FUNDS: 25140-947460-536200			Budget Adjustment: No	
			For Fiscal Year: 19/20	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Amended and Restated Cooperative (Joint Funding) Agreement replaces the December 23, 2002 and February 9, 2010 Cooperative Funding Agreement and Amendment No. 1 in its entirety. The Cooperative Funding Agreement is being amended and restated to acknowledge that District and City recognize that the San Jacinto River, Stage 4 project cost estimates would exceed their individual funding resources, requiring affected property owners to participate in a funding mechanism to acquire project right of way. The City had unsuccessful attempts in reaching agreements with the affected property owners to purchase the land needed to construct the project. The District and City desire to continue with this project at a future date when adequate funding becomes available.

The City entered into a consultant services agreement with Albert A. Webb Associates executed on October 18, 2007 to prepare the necessary studies, plans, specifications and cost estimates ("engineering costs") and secure all regulatory permits ("environmental costs") needed to construct San Jacinto River, Stage 4 pursuant to the provisions of the California Environmental Quality Act and the Public Contract Code ("WEBB Agreement"). District agreed to reimburse the City for the services delivered under the WEBB Agreement. The estimated amount on the WEBB Agreement is \$869,219, which includes 50% of the engineering costs and 100% of the environmental costs as shown on Exhibit "A" in the agreement.

The District and City now wish to amend and restate their respective understandings, roles and responsibilities pertaining to the San Jacinto River, Stage 4 project, including clarification on the District's contribution not to exceed twelve million dollars (\$12,000,000). The District and City agree that project expenditures, including District costs, WEBB services and other expenditures, will be deducted from the District's contribution, and remaining funds will be appropriated in the District's 5-year Capital Improvement Plan toward other drainage projects within the city. The District and City will enter into separate cost-sharing agreements for other drainage projects in the city.

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

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

Prev. Agn. Ref.: Item 11.2 of 12/23/2002 and Item 11.2 of 02/09/2010

Environmental Findings

The Amended and Restated Cooperative Joint Funding Agreement for the San Jacinto River, Stage 4 project was reviewed and determined to be exempt from CEQA pursuant to the General Rule Exemption, cited in Section 1506(b)(3) of the State CEQA Guidelines. The Amended and Restated Cooperative Joint Funding Agreement is merely an administrative action to amend and restate a formerly approved agreement. The act of amending and restating the agreement will not impact the environment. Nothing further is required.

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.

ATTACHMENTS:

1. Amended and Restated Cooperative Joint Funding Agreement
2. Exhibit "A"



Jason Farin, Senior Management Analyst

5/13/2020



Gregory L. Priamos, Director County Counsel

5/7/2020

AMENDED AND RESTATED
COOPERATIVE (JOINT FUNDING) AGREEMENT

San Jacinto River, Stage 4
Project No. 4-0-00020

The Riverside County Flood Control and Water Conservation District, a body politic, hereinafter called "DISTRICT", and the City of San Jacinto, a municipal corporation, hereinafter called "CITY", hereby agree as follows:

RECITALS

A. DISTRICT's Board of Supervisors, in a regularly scheduled session assembled on April 24, 2001, adopted Resolution No. F2001-12, which supports CITY's efforts to develop an engineering design for the construction of a proposed levee to channelize the San Jacinto River, hereinafter called "PROJECT", and directed the DISTRICT's General Manager-Chief Engineer to undertake several task, including the preparation of a Cooperative Funding Agreement; and

B. On December 23, 2002 [DISTRICT's Board Agenda Item No. 11.2], DISTRICT and CITY entered into a Cooperative Funding Agreement ("PRIOR AGREEMENT"), which set forth the terms and conditions by which DISTRICT would contribute matching funds for CITY's efforts to mitigate the existing San Jacinto River flood hazards of uncontrolled stormwater runoff from the San Jacinto River, specifically in the reach extending from the end of the existing U.S. Army Corps of Engineers' levee downstream to a point approximately 6,000 feet downstream of Sanderson Avenue. The specific reach of the San Jacinto River, which is sometimes referred to as "San Jacinto River, Stage 4", is hereinafter called "PROJECT LIMITS". DISTRICT and CITY have determined that providing improved flood protection in the vicinity of PROJECT LIMITS is vital to the future well-being of the community and the construction of PROJECT; and

C. On February 9, 2010 [DISTRICT's Board Agenda Item No. 11.2], DISTRICT and CITY entered into Amendment No. 1 ("PRIOR AMENDMENT NO. 1"); and

D. Pursuant to PRIOR AGREEMENT and PRIOR AMENDMENT NO. 1, DISTRICT and CITY mutually agree that their respective internal staff costs and expenses associated with the review and/or approval of PROJECT related documents shall be credited toward each party's respective PROJECT contribution; and

E. DISTRICT has a total internal staff and expense cost of \$3,519,337.66 from December 23, 2002 to October 31, 2019 (source A416 Report) which includes internal staff time for mapping, plan check, reimbursement to CITY for consultant work including design and environmental. This amount includes any previously paid amount to the CITY; and

F. CITY entered into a consultant services agreement with Albert A. Webb Associates ("WEBB") executed on October 18, 2007 to prepare the necessary studies, plans, specifications, cost estimates and secure all regulatory permits and funding needed to construct PROJECT pursuant to the provisions of the California Environmental Quality Act and the Public Contract Code ("WEBB Agreement"). DISTRICT agreed to reimburse CITY for the services delivered under the WEBB Agreement. The estimated total on the WEBB Agreement is \$869,218.

G. As PROJECT proceeded after 2014, DISTRICT and CITY recognized that PROJECT cost estimates would exceed their individual funding resources, and that affected property owners would need to participate in a funding mechanism to acquire project right of way, which led to CITY attempts to reach option agreements with the affected property owners. CITY was unable to reach option agreement(s) with property owners for the purchase of land needed for the PROJECT LIMITS improvement project. Without the property owner option agreements, the parties are unable to construct the PROJECT LIMITS at the present time and desire to salvage

the time and work invested in the PROJECT with ready plans and permits that may be used at a future date when adequate funding becomes available and update the existing National Flood Insurance Rate Map for the San Jacinto River; and

H. DISTRICT entered into a consultant services agreement with WEBB executed on May 1, 2018 for the revision of the Flood Insurance Rate Maps Community Panel Nos. 06065C1460G, 060651480G and 060651490G to reflect current topographic and hydrologic conditions and state of the art hydraulic modeling programs ("WEBB Task Order"). The estimated amount for this WEBB Task Order is \$83,700; and

I. DISTRICT and CITY now wish to amend and restate their respective understandings, roles and responsibilities pertaining to the PROJECT set forth herein to DISTRICT's matching contribution not to exceed twelve million dollars (\$12,000,000) ("TOTAL DISTRICT CONTRIBUTION") including internal staff cost, payments made under PRIOR AGREEMENT, PRIOR AMENDMENT NO. 1, WEBB Task Order and WEBB Agreement with CITY. DISTRICT is to reimburse CITY for 50% of the engineering cost and 100% of the environmental cost as shown on Exhibit "A" attached hereto and made a part hereof. Furthermore, DISTRICT and CITY mutually agree that the provisions of this Agreement shall supersede all provisions of PRIOR AGREEMENT and PRIOR AMENDMENT NO. 1; and

J. DISTRICT has received from CITY documentation for work incurred under the PRIOR AGREEMENT, PRIOR AMENDMENT NO. 1 and the WEBB Agreement that are sufficient as backup to official CITY generated invoice for making reimbursements to CITY as outlined herein; and

K. DISTRICT and CITY agree that the remaining \$7,508,463 of the TOTAL DISTRICT CONTRIBUTION is already appropriated in the DISTRICT 5-year Capital

Improvement Plan toward additional drainage projects within CITY limits (the "REMAINING 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

DISTRICT shall:

1. Prior to the execution of this Agreement have provided a copy of the A416 financial report of DISTRICT PROJECT costs up to October 31, 2019 for CITY to review and approve.

2. Complete the revision to the Flood Insurance Rate Maps Community Panel Nos. 06065C1460G, 060651480G and 060651490G to reflect current topographic and hydrologic conditions and state of the art hydraulic modeling programs.

3. Within forty-five (45) days of the execution of this Agreement, reimburse CITY 50% of the engineering cost and 100% of the environmental cost of the WEBB Agreement in the amount of \$869,218.17.

4. Have all together provided total reimbursement to the CITY for the WEBB Agreement, PRIOR AGREEMENT and PRIOR AMENDMENT NO. 1 in the amount of \$869,218.17.

5. Upon completion of tasks covered by the WEBB Task Order, furnish CITY with final costs of task order and DISTRICT's total final contribution to PROJECT, estimated to be as follows:

\$869,218.17	DISTRICT reimbursement to CITY for WEBB Agreement
\$83,700.00	DISTRICT's WEBB Task Order
\$19,281.75	CDFW Permit Fee Task Order

\$3,519,337.66	DISTRICT's internal staff and expense cost
\$4,491,537.58	DISTRICT's total contribution to PROJECT
\$7,508,462.42	REMAINING DISTRICT CONTRIBUTION

SECTION II

CITY shall:

1. Be responsible for its staff costs and expenses, including the cost of consultants retained by CITY to assist with the administration of their responsibilities or in the review of WEBB's Agreement.
2. Assist DISTRICT in determining other sources of available funds for the improvements that do not require any additional expenditure of CITY funds.
3. Invoice DISTRICT 50% of engineering cost and 100% of environmental cost for the WEBB Agreement, the Task already conducted under the authority of the PRIOR AGREEMENT and PRIOR AMENDMENT NO. 1. All invoices shall contain, at a minimum, invoice number, invoice date, invoice total amount, remittance address, and itemized charges and backup documentation.

SECTION III

It is further mutually agreed:

1. Notwithstanding any other provision in this Agreement, TOTAL DISTRICT CONTRIBUTION shall not exceed a total sum of twelve million dollars (\$12,000,000).
2. The REMAINING DISTRICT CONTRIBUTION shall be made available to the CITY at the execution of new cost-sharing agreements for each new project in the CITY.
3. 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 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 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.

4. 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.

5. 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.

6. 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.

7. 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: Jason E. Uhley
General Manager-Chief Engineer

CITY OF SAN JACINTO
595 South San Jacinto Avenue
Building A
San Jacinto, CA 92583
Attn: Joe Indrawan
Public Works Department

8. 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.

9. 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.

10. The obligations of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for DISTRICT's financial contribution toward PROJECT as set forth herein. In the event that such funds are not forth coming 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.

11. 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.

12. 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.

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

14. CITY shall not have any payment obligations for any work in the PROJECT LIMITS except as outlined herein.

//

//

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

15 05-19-2020
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

By [Signature]
JASON E. UHLEY
General Manager-Chief Engineer

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

By [Signature]
KAREN SPIEGEL, Chairwoman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

GREGORY P. PRIAMOS
County Counsel

By [Signature]
SYNTHIA M. GUNZEL
Chief Deputy County Counsel

ATTEST:

KECIA HARPER
Clerk of the Board

By [Signature]
Deputy

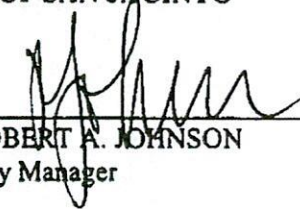
(SEAL)



Amended and Restated Cooperative (Joint Funding) Agreement w/City of San Jacinto
San Jacinto River, Stage 4
Project No. 4-0-00020
03/10/20
RSM:mcv

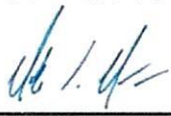
RECOMMENDED FOR APPROVAL:

CITY OF SAN JACINTO

By 
ROBERT A. JOHNSON
City Manager

APPROVED AS TO FORM:

ATTEST:

By 
~~SETH MEREWITZ~~
~~Special Counsel~~
Best Best & Krieger
Michael J. Maurer
City Attorney

By 
~~CHERYL L. LINK~~ Angela Walton
City Clerk

(SEAL)



Amended and Restated Cooperative (Joint Funding) Agreement w/City of San Jacinto
San Jacinto River, Stage 4
Project No. 4-0-00020
03/10/20
RSM:mcv

EXHIBIT A

City Contract costs to be included on Amended and Restated Agreement (To be paid after agreement execution from FY19-20 budget) Provided by City of San Jacinto email by Tom Prill dated 07.15.2019			
Description	Total Billed	District Share Percentage	District Share
Design Requisition #8	\$ 617,032.71	50%	\$ 308,516.36
EA Requisition #11	\$ 306,819.28	100%	\$ 306,819.28
EA Requisition #12	\$ 346,217.07	50%	\$ 173,108.54
EA Requisition #13	\$ 80,774.00	100%	\$ 80,774.00
TOTAL EA and DESIGN REQUISITIONS OUTSTANDING			\$ 869,218.17
Known Future Costs to be paid directly by District			
Description	Total		
WEBB Task Order for San Jacinto River, Stage 4 - Post Phase 1 Floodplain Study. Updated cost provided by Kyle G. (See-PO # 0023818)	\$ 83,700.00		
DISTRICT's CONSULTING SERVICES AGREEMENTS	\$ 83,700.00		
CDFW Permit Fee to be Paid by RCFC	\$ 19,281.75		
Sub-total	\$ 102,981.75		
Summary of Total District Costs			
Description	Total		
Total Project Cost from 12/23/2002 to 10/30/2019 from A416 Report. Includes District staff, mapping, plancheck, City's consultant work including design & environmental. This amount includes any previously paid amounts to the City.	\$ 3,519,337.66		
Known future costs paid directly by District (See above)	\$ 102,981.75		
Future costs to be included in amended and restated agreement (see above)	\$ 869,218.17		
DISTRICT's TOTAL CONTRIBUTION - SJR4	\$4,491,537.58		

AMENDED and RESTATED COOPERATIVE
(JOINT FUNDING) AGREEMENT

San Jacinto River, Stage 4
 Project No. 4-8-00020