

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



ITEM: 11.4
(ID # 13730)

MEETING DATE:

Tuesday, November 10, 2020

FROM: FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of the Cooperative Funding Agreement Between the Riverside County Flood Control and Water Conservation District and the City of Wildomar for Sedco MDP Line F, Stage 3, Project No. 3-0-00141, No Further Action Required Under CEQA, District 1. [\$331,000 – District Zone 3 Funding 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the Cooperative Funding Agreement and acceptance of the flood control facilities will not have a significant adverse effect on the environment and that any potentially significant environmental effects have been adequately analyzed in a Final Environmental Impact Report (EIR; SCH No. 2007051156), adopted with a Notice of Determination (NOD) filed on September 12, 2014 by the Lead Agency (City of Wildomar), and the Addendum to the EIR; and
2. Approve the Cooperative Funding Agreement ("Agreement") between the Riverside County Flood Control and Water Conservation District ("District") and the City of Wildomar ("City"), and authorize the Chairwoman of the Board to execute the same on behalf of the District; and
3. Authorize the District's General Manager-Chief Engineer to have the delegated authority to terminate the Agreement in accordance with the terms and conditions in the Agreement if such action is desired by the District; and
4. Direct the Clerk of the Board to return two (2) executed Agreements to the District.

ACTION:


Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 10/28/2020

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Hewitt 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: November 10, 2020
xc: Flood

Kecia R. Harper
Clerk of the Board

By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 331,000	\$ 0	\$ 331,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Zone 3 Funds 100%			Budget Adjustment: No	
			For Fiscal Year: 20/21	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

This Agreement sets forth the terms and conditions by which the District will contribute up to three hundred thirty-one thousand dollars (\$331,000) in funding to the City for the design and construction of a certain flood control facility, Sedco MDP - Line F, Stage 3, as a part of a City administered public works construction contract. Said flood control facility is to be designed and constructed by the City as a part of the Bundy Canyon Road widening project and inspected, operated and maintained by the District and the City.

Upon completion of construction, the District will assume ownership and responsibility for the operation and maintenance of the mainline storm drain system, which includes approximately 950 lineal feet of underground storm drain. The City will assume ownership and responsibility for the operation and maintenance for the flood control facility's associated catch basins, connector pipes and lateral storm drains that are thirty-six inches or less in diameter that are located within City held easements or rights of way.

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

Environmental Findings

Pursuant to Section 15096 of the State CEQA Statutes and Guidelines, the District, in its limited capacity as a responsible agency, considered the Final Environmental Impact Report (EIR) and Addendum to the EIR that was prepared by the Lead Agency for the City's road improvement project and independently finds that the EIR adequately covers the District's actions. No significant adverse impacts will result from execution of the Agreement or from the operation and maintenance of the flood control facilities that are the subject of the Agreement. As such, nothing further is required under CEQA.

Impact on Residents and Businesses

The District's financial contribution toward the flood control facility is funded by ad valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to residents and businesses. Upon construction completion, the flood control facility will provide drainage improvements along Bundy Canyon Road east of Interstate 15.

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Additional Fiscal Information

The District is providing up to three hundred thirty-one thousand dollars (\$331,000) in funding to the City for the design and construction of said flood control facility. Sufficient funding is available in the District's Zone 3 budget for FY 2020-2021 and will be included in the proposed budget in future years as appropriate and necessary. Future operations and maintenance costs associated with the mainline storm drain system will accrue to the District.

Funding Summary

Estimated Design and Administration Contribution	\$	59,050
Estimated Construction Contribution	\$	271,950
Maximum District Contribution to the City	\$	331,000

SOURCE OF FUNDS: (Continued)

- 25130-947440-536200 Contribution to Non-County Agency – Zone 3

ATTACHMENTS:

1. Vicinity Map
2. Cooperative Funding Agreement

RKM:blm
P8/234498



Scott Bruckner 11/2/2020



Gregory L. Priamos, Director County Counsel 10/29/2020

COOPERATIVE FUNDING AGREEMENT
 Bundy Canyon Road Widening – Line F Extension
 Sedco MDP - Line F, Stage 3
 Project No. 3-0-00141

This Cooperative Funding Agreement ("Agreement"), dated as of November 10, 2020, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and the City of Wildomar, a municipal corporation ("CITY"). DISTRICT and CITY are collectively referred to herein as "Parties" and individually as "Party". The Parties hereto agree as follows:

RECITALS

A. CITY has budgeted for and plans to design and construct Segment 1 of the Bundy Canyon Road widening project ("BUNDY CANYON SEGMENT 1"), which also includes the Sedco MDP - Line F, Stage 3 ("STAGE 3"). STAGE 3 will replace the existing open channel portion of Sedco MDP - Line F, Stage 1, which runs parallel to the proposed street improvements; and

B. The remainder of Sedco MDP - Line F, Stage 1, as shown on District Drawing No. 3-0131, is hereinafter called "STAGE 1"; and

C. STAGE 3, as shown on District Drawing No. 3-0212, includes the construction of approximately 950 lineal feet of underground storm drain to be constructed within Bundy Canyon Road from Sellers Road westerly toward Cherry Street. STAGE 3 is shown in concept in blue on Exhibit "A" attached hereto and made a part hereof; and

D. Associated with the construction of STAGE 3 is the construction of:

(i) Certain catch basins, connector pipes and lateral storm drains that are thirty-six inches (36") or less in diameter that are

located within CITY rights of way ("APPURTENANCES");
and

(ii) Certain 60" corrugated metal pipes located within CITY right of way ("CITY CMP"). CITY CMP is shown in concept in orange on Exhibit "A"; and

(iii) Together, APPURTENANCES and CITY CMP are hereinafter called "CITY FACILITIES"; and

E. STAGE 3 and CITY FACILITIES are hereinafter altogether called "PROJECT"; and

F. CITY plans to advertise, award and administer a public works construction contract for BUNDY CANYON SEGMENT 1, which will include PROJECT, during Fiscal Years 2019/2020 – 2020/2021; and

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

H. DISTRICT has reviewed the necessary plans and specifications for PROJECT ("IMPROVEMENT PLANS"); and

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

J. The lowest responsible bid contract price for PROJECT construction is hereinafter called "ORIGINAL BID"; and

K. DISTRICT's contribution shall be as follows:

(i) "DESIGN CONTRIBUTION"

Fifty percent (50%) of DISTRICT-approved engineering design

proposal cost for PROJECT to offset CITY's costs associated with mapping, surveying, engineering and other typical ancillary costs related to the preparation of the necessary plans and specifications to construct PROJECT, plus an additional ten percent (10%) of DISTRICT-approved engineering design proposal cost to offset CITY's administrative costs associated with design contract administration; and

(ii) "ENVIRONMENTAL PERMITS CONTRIBUTION"

Fifty percent (50%) of the costs associated with preparing, applying for and obtaining the environmental documents and regulatory permits required for PROJECT.

(iii) Together, DESIGN CONTRIBUTION and ENVIRONMENTAL PERMITS CONTRIBUTION are hereinafter called "PRECONSTRUCTION CONTRIBUTION"; and

(iv) "CONSTRUCTION CONTRIBUTION"

Fifty percent (50%) of ORIGINAL BID; and

(v) "OPTIONAL CONSTRUCTION ADMIN CONTRIBUTION"

An additional five percent (5%) of ORIGINAL BID to offset the administrative costs associated with construction contract administration and other typical ancillary costs related to the delivery of a flood control facility. If CITY requests DISTRICT to provide construction inspection, materials testing and construction survey services for PROJECT, DISTRICT shall

utilize OPTIONAL CONSTRUCTION ADMIN CONTRIBUTION to provide such services; and

(vi) "CHANGE ORDERS CONTRIBUTION"

Up to an additional five percent (5%) of the ORIGINAL BID to offset any construction contract change orders; and

(vii) Altogether, PRECONSTRUCTION CONTRIBUTION, CONSTRUCTION CONTRIBUTION and CHANGE ORDERS CONTRIBUTION are hereinafter called "DISTRICT CONTRIBUTION". DISTRICT CONTRIBUTION shall not exceed a total sum of Three Hundred Eight Thousand Three Hundred Fifty Dollars (\$308,350). Altogether, DISTRICT CONTRIBUTION and OPTIONAL CONSTRUCTION ADMIN CONTRIBUTION are hereinafter called "MAXIMUM CONTRIBUTION". MAXIMUM CONTRIBUTION shall not exceed a total sum of Three hundred Thirty-One Thousand Dollars (\$331,000); and

L. CITY desires DISTRICT to ultimately accept ownership and responsibility for operation and maintenance of STAGE 3. Therefore, DISTRICT must review and approve IMPROVEMENT PLANS and subsequently inspect the construction of STAGE 3; and

M. It is in the best interest of the public to proceed with the construction of PROJECT at the earliest possible date; and

N. The purpose of this Agreement is to memorialize the mutual understandings by and between DISTRICT and CITY with respect to funding, design,

construction, inspection, 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. 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. Prepare or cause to be prepared the necessary plans and specifications for PROJECT ("IMPROVEMENT PLANS"), in accordance with the applicable DISTRICT and CITY standards, and submit to DISTRICT for its review and approval prior to advertising BUNDY CANYON SEGMENT 1, which includes PROJECT, for construction bids.
3. Prior to commencing construction, obtain, at its sole cost and expense all necessary permits, approvals or agreements as may be required by any federal, state and local resource or regulatory agencies pertaining to the construction, operation and maintenance of PROJECT. Such documents may include, but are not limited to, those issued by the U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California Department of Fish and Wildlife, State Water Resources Control Board and Western Riverside County Regional Conservation Authority ("REGULATORY PERMITS").
4. Provide DISTRICT an opportunity to review and make a

determination on the PROJECT engineering design cost proposal.

5. Keep an accurate accounting of (i) all design costs associated with the preparation of plans and specifications for PROJECT, in conformance with DISTRICT-approved engineering design cost proposal, and (ii) all costs associated with preparing, applying for and obtaining the environmental documents and regulatory permits required for PROJECT, and include this accounting when invoicing DISTRICT for payment of PRECONSTRUCTION CONTRIBUTION as set forth in Section I.6.

6. Invoice DISTRICT (Attention: Special Projects) for PRECONSTRUCTION CONTRIBUTION upon execution of this Agreement.

7. Obtain, at its sole cost and expense, all necessary permits, licenses, agreements, approvals, rights of way, rights of entry, encroachment permits from the California Department of Transportation and temporary construction easements as may be needed to construct, operate and maintain PROJECT ("ROW DOCUMENTS").

8. Endeavor to award a public works construction contract for PROJECT and begin construction within twenty-four (24) months of execution of this Agreement.

9. Prior to advertising BUNDY CANYON SEGMENT 1, which includes PROJECT, for public works construction contract, provide DISTRICT an opportunity to review and make a determination on all REGULATORY PERMITS and ROW DOCUMENTS. DISTRICT's approval of any such document(s) or IMPROVEMENT PLANS may be withheld when, in the sole judgment of DISTRICT's General Manager–Chief Engineer, the said document(s) will unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain STAGE 1 or STAGE 3.

10. Advertise, award and administer a public works construction contract

for BUNDY CANYON SEGMENT 1, which includes PROJECT, at its sole cost and expense.

11. Provide DISTRICT with written notice (Attention: Special Projects) that CITY has awarded a public works construction contract for BUNDY CANYON SEGMENT 1, which includes PROJECT. The written notice shall include the Contractor's ORIGINAL bid amount for PROJECT.

12. Invoice DISTRICT (Attention: Special Projects) for the payment of CONSTRUCTION CONTRIBUTION at the time of providing written notice of the award of a construction contract as set forth in Section I.11. CONSTRUCTION CONTRIBUTION shall be supported by a copy of CITY's bid abstracts for PROJECT.

13. Within thirty (30) days of awarding PROJECT, pay the Western Riverside County Regional Conservation Agency the mitigation fee for BUNDY CANYON SEGMENT 1, which includes PROJECT, per the 2004 Implementing Agreement for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP).

14. Prior to commencing PROJECT construction, furnish DISTRICT with final mylar PROJECT plans and assign ownership of PROJECT plans to DISTRICT.

15. Not permit any change to or modification of DISTRICT- and CITY- approved IMPROVEMENT PLANS without DISTRICT's prior written permission and consent. Failure to do so shall be deemed a material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at its sole discretion, to provide written notice to CITY that DISTRICT is unable to a) perform its obligations hereunder, and b) to accept responsibility for ownership, operation and maintenance of STAGE 3 due, either in whole or in part, to said breach of this Agreement.

16. Prior to commencing PROJECT construction, schedule and conduct a mandatory pre-construction meeting between CITY, CITY's construction manager, CITY's construction contractor(s), DISTRICT and other affected entities. CITY shall notify DISTRICT (Attention: Construction Management) in writing at least twenty (20) days prior to conducting the pre-construction meeting.

17. Furnish DISTRICT (Attention: Construction Management), at the time of providing written notice of the pre-construction meeting as set forth in Section I.16., with:

A. A construction schedule which shall show the order and dates in which CITY or CITY's contractor proposes to carry on the various parts of work, including estimated start and completion dates; and

B. A confined space procedure specific to PROJECT. The procedure shall comply with requirements contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space Operations; Section 5157, Permit Required Confined Space; and District confined Space Procedures, SOM-

18. The procedure shall be reviewed and approved by DISTRICT prior to the start of PROJECT construction.

18. 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 CITY and DISTRICT employees on the site.

19. Procure or caused to be procured insurance coverages during the term of this Agreement. CITY shall require its construction contractor(s) to furnish original

certificate(s) of insurance and original certified copies of endorsements and, if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in Exhibit "B" attached hereto and incorporated herein. Prior to CITY issuing a Notice to Proceed to its construction contractor(s) to begin construction of PROJECT, an original certificate of insurance evidencing the required insurance coverage shall be provided to DISTRICT.

20. Order the relocation of all utilities within CITY rights of way that conflict with the construction of PROJECT and that must be relocated at the utility company's expense.

21. Construct or cause to be constructed PROJECT pursuant to a CITY administered public works construction contract, in accordance with IMPROVEMENT PLANS approved by DISTRICT and CITY, and pay all costs associated therewith.

22. Keep an accurate accounting of all PROJECT construction costs and include this final accounting when invoicing DISTRICT for CHANGE ORDERS CONTRIBUTION as set forth in Section I.33. The final accounting of construction costs shall include a detailed breakdown of all costs including, but not limited to, payment vouchers, change orders and other such construction contract documents as may be necessary to establish the actual cost of construction and the associated contract administration cost.

23. Inspect PROJECT construction or cause PROJECT's construction to be inspected by its construction manager, and pay all costs associated therewith. In the event CITY wishes to utilize DISTRICT's construction inspection, materials testing and construction survey services, CITY shall provide DISTRICT with written notice (Attn: Special Projects) requesting such services. However, CITY will continue to serve as

construction contract manager.

24. Furnish or cause its construction manager to furnish DISTRICT (Attention: Construction Management) with all construction survey and materials testing services necessary to ensure PROJECT construction is accomplished in accordance with DISTRICT- and CITY-approved IMPROVEMENT PLANS.

25. Grant DISTRICT, by execution of this Agreement, the right to inspect, operate and maintain STAGE 3 within CITY rights of way.

26. Within two (2) weeks of completing PROJECT construction, provide DISTRICT with written notice (Attention: Construction Management) that PROJECT construction is substantially complete and requesting that DISTRICT conduct a final inspection of STAGE 3.

27. Assume ownership and sole responsibility for the operation and maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility for the operation and maintenance of STAGE 3 as set forth herein.

28. Upon completion of PROJECT construction and settlement of any outstanding claims, provide DISTRICT with a copy of the CITY's recorded Notice of Completion.

29. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of STAGE 3 for ownership, operation and maintenance, provide DISTRICT with appropriate engineering documentation necessary to establish that STAGE 3 was constructed in accordance with the approved IMPROVEMENT PLANS.

30. Upon completion of PROJECT construction but prior to DISTRICT acceptance of STAGE 3 for ownership, operation and maintenance, convey or cause to be conveyed to DISTRICT the flood control easement(s) or grant deed(s) of fee title, where

appropriate, deemed necessary by DISTRICT for the operation and maintenance of STAGE 3. The easement(s) or grant deed(s) shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the easement(s) or grant deed(s).

31. At the time of recordation of the conveyance document(s) as set forth in Section I.30., furnish DISTRICT with policies of title insurance, each in the amount of not less than (i) fifty percent (50%) of the estimated fee value as determined by DISTRICT for each easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the estimated value as determined by DISTRICT for each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT's interest in said property as being free and clear of all liens, encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), and except those which in the sole discretion of DISTRICT are acceptable.

32. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of STAGE 3 for ownership, operation and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT with redlined "record drawings" of PROJECT plans. After DISTRICT approval of the redlined "record drawings", CITY's engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT's original mylars at DISTRICT's office, after which the engineer shall review, stamp and sign mylars "record drawings".

33. Upon DISTRICT acceptance of STAGE 3 for ownership, operation and maintenance, invoice DISTRICT (Attention: Special Projects) for CHANGE ORDERS CONTRIBUTION and, if applicable, for OPTIONAL CONSTRUCTION ADMIN CONTRIBUTION, provided, however, that (i) DISTRICT CONTRIBUTION

does not exceed a total sum of Three Hundred Eight Thousand Three Hundred Fifty Dollars (\$308,350), and (ii) MAXIMUM CONTRIBUTION does not exceed a total sum of Three Hundred Thirty-One Thousand Dollars (\$331,000).

34. 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 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.

SECTION II

DISTRICT shall:

1. Act as a Responsible Agency under CEQA, taking all necessary and appropriate action to comply with CEQA.
2. Review and make a determination on CITY's engineering design cost proposal for PROJECT.
3. Review and make a determination on all necessary REGULATORY PERMITS and ROW DOCUMENTS prior to CITY advertising BUNDY CANYON SEGMENT 1, which includes PROJECT, for bids. Said REGULATORY PERMITS and ROW DOCUMENTS shall not unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain STAGE 1 or STAGE 3. DISTRICT may withhold approval of any such document(s) or IMPROVEMENT PLANS when, in the sole judgment of DISTRICT's General Manager-Chief Engineer, the said document(s) unreasonably constrain, inhibit or impair DISTRICT's ability to operate and maintain STAGE 1 or STAGE 3.

4. Review and approve IMPROVEMENT PLANS prior to CITY's advertising BUNDY CANYON SEGMENT 1, which includes PROJECT, for construction bids.

5. Pay CITY within thirty (30) days after receipt of CITY's appropriate invoice for PRECONSTRUCTION CONTRIBUTION as set forth in Section I.6.

6. Pay CITY within thirty (30) days after receipt of CITY's appropriate invoice for CONSTRUCTION CONTRIBUTION as set forth in Section I.12.

7. Conduct periodic inspections of STAGE 3 construction for quality control purposes at its sole cost and provide any comments to CITY's designated PROJECT construction inspector.

8. Provide all necessary construction inspection, materials testing and construction survey services for PROJECT, and assist CITY as needed with the administration of PROJECT's construction contract if CITY provides DISTRICT with written notice (Attn: Special Projects) requesting such services per Sections I.23. and IV.5. DISTRICT shall utilize OPTIONAL CONSTRUCTION ADMIN CONTRIBUTION to pay all DISTRICT costs associated with the inspection of PROJECT construction as set forth herein.

9. Upon receipt of CITY's written notice that PROJECT construction is substantially complete as set forth in Section I.26., conduct a final inspection of STAGE 3.

10. Accept ownership and responsibility for the operation and maintenance of STAGE 3 upon (i) DISTRICT inspection of STAGE 3 in accordance with Sections I.26. and II.9., (ii) DISTRICT acceptance of STAGE 3 as being complete, (iii)

DISTRICT receipt of CITY's recorded Notice of Completion as set forth in Section I.28., (iv) DISTRICT receipt of appropriate engineering documentation as set forth in Section I.29., (v) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans as set forth in Section I.32., (vi) DISTRICT's acceptance of all necessary rights of way and/or easements as set forth in Section I.30., and (vii) DISTRICT's sole determination that STAGE 3 is in a satisfactorily maintained condition.

11. Pay CITY, within thirty (30) days after receipt of CITY's appropriate invoice, for CHANGE ORDERS CONTRIBUTION and, if applicable, OPTIONAL CONSTRUCTION ADMIN CONTRIBUTION as set forth in Sections I.22. and I.33., provided, however, that (i) DISTRICT CONTRIBUTION does not exceed a total sum of Three Hundred Eight Thousand Three Hundred Fifty Dollars (\$308,350), and (ii) MAXIMUM CONTRIBUTION does not exceed a total sum of Three Hundred Thirty-One Thousand Dollars (\$331,000).

SECTION III

Indemnification:

1. 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.

2. CITY shall Indemnify and hold harmless and require its construction contractor(s) to indemnify, defend and hold harmless the Riverside County Flood Control and Water Conservation District, County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any acts, omissions or services of CITY and CITY's construction contractor(s), its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement including, but not limited to, property damage, bodily injury or death or any other element of any kind or nature whatsoever arising from the performance of CITY's construction contractor(s), its officers, employees, subcontractors, agents or representatives Indemnitors from this Agreement. CITY or CITY's construction contractor(s) shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

3. With respect to any action or claim subject to indemnification herein by CITY or CITY's construction contractor(s), CITY or CITY's construction contractor(s) shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle or compromise any such action or claim without the prior consent of DISTRICT and the County of Riverside, provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CITY or CITY's construction contractor(s) indemnification to Indemnitees as set forth

herein.

4. CITY and CITY's construction contractor(s) obligation hereunder shall be satisfied when CITY or CITY's construction contractor(s) has provided to DISTRICT and the County of Riverside the appropriate form of dismissal relieving DISTRICT and the County of Riverside from any liability for the action or claim involved.

5. The specified insurance limits required in this Agreement shall in no way limit or circumscribe CITY's construction contractor(s) obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

6. In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve CITY's construction contractor(s) from indemnifying the Indemnitees to the fullest extent allowed by law.

SECTION IV

It is further mutually agreed:

1. DISTRICT CONTRIBUTION does not exceed a total sum of Three Hundred Eight Thousand Three Hundred Fifty Dollars (\$308,350) and shall be used by CITY solely for the purpose of designing and constructing PROJECT as set forth herein. MAXIMUM CONTRIBUTION shall not exceed a total sum of Three Hundred Thirty-One Thousand Dollars (\$331,000).

2. In the event CITY's construction contractor does not complete the construction of PROJECT in accordance with DISTRICT standards, CITY shall complete the project utilizing the bonds and insurances secured for PROJECT.

3. Except as otherwise provided herein, all construction work involved with PROJECT shall be inspected by DISTRICT and CITY or its construction

manager, but shall not be deemed complete until DISTRICT and CITY mutually agree that construction is completed in accordance with DISTRICT- and CITY-approved IMPROVEMENT PLANS. CITY shall not request DISTRICT to accept any portion of PROJECT for ownership, operation or maintenance until PROJECT construction is deemed fully complete and all necessary rights of way have been conveyed as set forth herein.

4. DISTRICT personnel may observe and inspect all work being done on PROJECT but shall provide any comments to CITY personnel or its construction manager, who shall be solely responsible for all communications with CITY's construction contractor(s).

5. In the event CITY wishes to utilize DISTRICT's construction inspection, materials testing and construction survey services, CITY shall provide DISTRICT with written notice (Attn: Special Projects) requesting such services. DISTRICT shall utilize OPTIONAL CONSTRUCTION ADMIN CONTRIBUTION to pay all DISTRICT costs associated with the inspection of PROJECT construction as set forth herein.

6. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of STAGE 3, STAGE 3 shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, in the sole discretion of DISTRICT, STAGE 3 is not in an acceptable condition, corrections will be made at the sole expense of CITY.

7. DISTRICT, the County of Riverside, the State of California or any of their duly authorized representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement.

CITY agrees to maintain such records for possible audit for a minimum of three (3) years after final payment. CITY agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

8. Any waiver by DISTRICT or by CITY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof or estopping DISTRICT or CITY from enforcement hereof.

9. This Agreement is to be construed in accordance with the laws of the State of California.

10. 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:

To DISTRICT: RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Special Projects

To CITY: CITY OF WILDOMAR
23873 Clinton Keith Road, Suite 201
Wildomar, CA 92595
Attn: Assistant City Manager/City Engineer

11. 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.

12. 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.

13. 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.

14. Neither CITY nor DISTRICT shall assign this Agreement without the written consent of the other Party.

15. 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.

16. DISTRICT and CITY each pledge to cooperate in regard to the operation and maintenance of their respective facility 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' facility.

17. Time is of the essence in prosecuting the work contemplated under this Agreement. At any time during the term of this Agreement, DISTRICT may terminate this Agreement for cause including, but not limited to, CITY's failure to prosecute the work in a timely manner, upon providing CITY thirty (30) days written notice stating the extent and effective date of termination.

18. The obligation(s) 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 forthcoming for any reason, DISTRICT shall immediately notify CITY in writing.

19. 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.

20. This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

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

November 10, 2020

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By J. Uhley
JASON E. UHLEY
General Manager-Chief Engineer

By Karen S. Spiegel
KAREN SPIEGEL, Chairwoman
Board of Supervisors, Riverside County Flood Control and Water Conservation District

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

By Synthia M. Gunzel
SYNTHIA M. GUNZEL
Deputy County Counsel

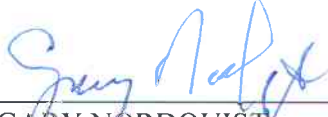
By [Signature]
Deputy


(SEAL)

Cooperative Funding Agreement with City of Wildomar
Bundy Canyon Road Widening – Line F Extension
Sedco MDP Line F, Stage 3
Project No. 3-0-00141
07/30/2020
RKM:blm

RECOMMENDED FOR APPROVAL:

CITY OF WILDOMAR


By 
GARY NORDQUIST
City Manager

By 
DUSTIN NIGG
Mayor

APPROVED AS TO FORM:

ATTEST:

By _____
THOMAS D. JEX
City Attorney

By 
JANET MORALES
Acting City Clerk

(SEAL)



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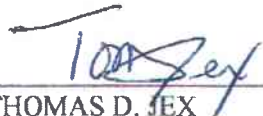
CITY OF WILDOMAR

By _____
GARY NORDQUIST
City Manager

By _____
DUSTIN NIGG
Mayor

APPROVED AS TO FORM:

ATTEST:

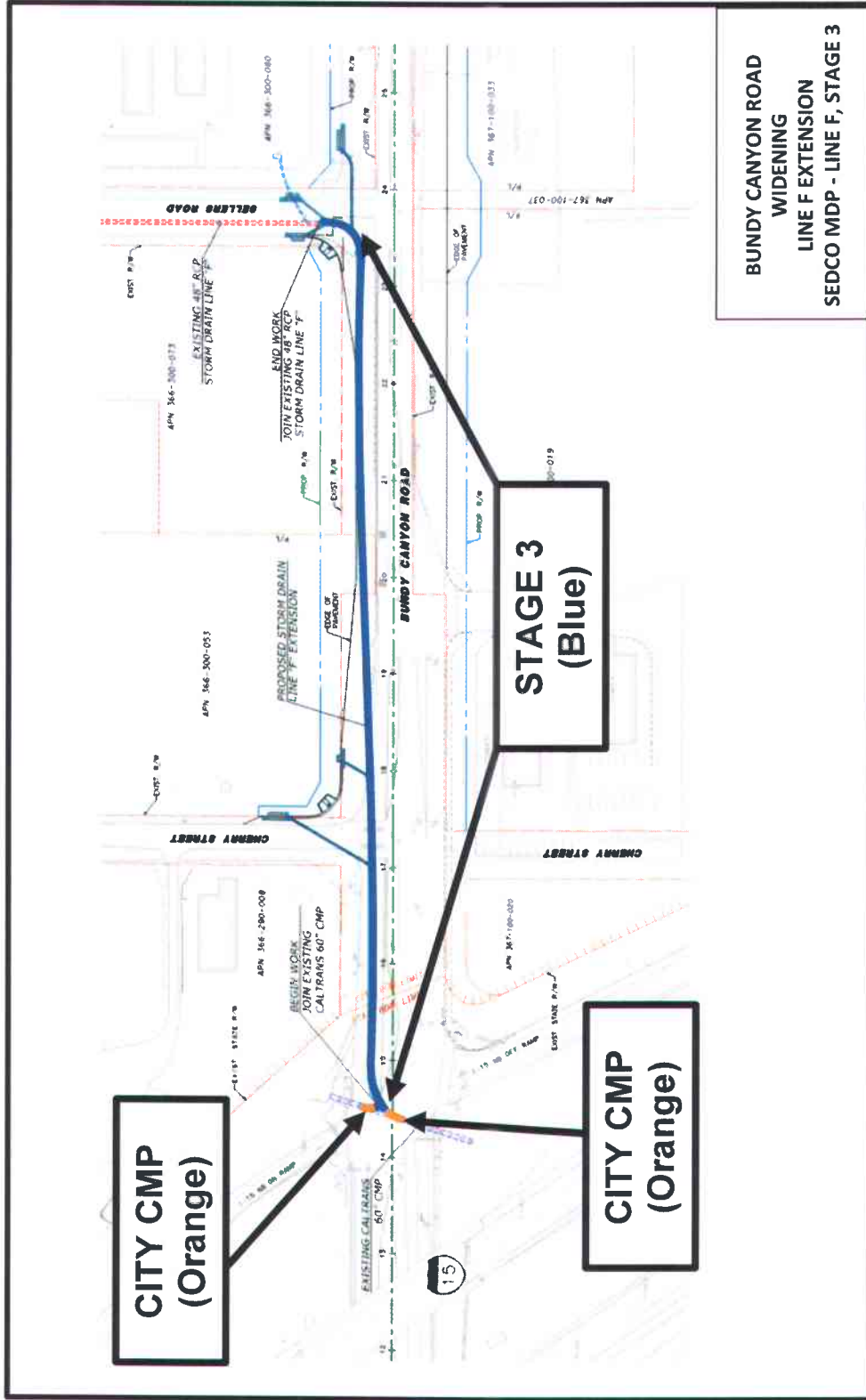
By  _____
THOMAS D. JEX
City Attorney

By _____
JANET MORALES
Acting City Clerk

(SEAL)

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Bundy Canyon Road Widening – Line F Extension
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EXHIBIT A



COOPERATIVE FUNDING AGREEMENT
 Bundy Canyon Road Widening – Line F Extension
 Sedco MDP - Line F, Stage 3
 Project No. 3-0-00141
 Page 1 of 1

EXHIBIT B

DISTRICT's Required Insurance is as follows:

1. CITY's construction contractor(s) shall not commence operations until DISTRICT has been furnished with original certificate(s) of insurance and original certified copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Exhibit.
2. Without limiting or diminishing CITY's and CITY's construction contractor(s) obligation to indemnify or hold DISTRICT harmless, CITY's construction contractor(s) shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the DISTRICT herein refers to the Riverside County Flood Control and Water Conservation District, County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insured.
 - A. Workers' Compensation:

If CITY's construction contractor(s) has employees as defined by the State of California, CITY's construction contractor(s) shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of DISTRICT.
 - B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CITY's construction contractor(s) performance of its obligations hereunder. Policy shall name DISTRICT as Additional Insured. Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.
 - C. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CITY's construction contractor(s) shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit. Policy shall name DISTRICT as Additional Insured.
 - D. Professional Liability:

CITY shall cause any architect or engineer retained by CITY in connection with

EXHIBIT B

the performance of CITY's obligations under this Agreement to maintain Professional Liability Insurance providing coverage for the performance of their work included within this Agreement, with a limit of liability of not less than \$2,000,000 per occurrence and \$4,000,000 annual aggregate. CITY shall require that, if such Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and that such architect or engineer shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that such architect or engineer has maintained continuous coverage with the same or original insurer. Coverage provided under items: 1), 2) or 3) will continue as long as the law allows.

E. Pollution and Asbestos Liability:

CITY's construction contractor(s) shall obtain, at its sole expense and keep in effect during the term of the contract, Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) covering CITY's construction contractor(s) liability for a third party bodily injury and property damage arising from pollution conditions caused by the CITY's construction contractor(s) while performing their operations under the contract. The insurance coverage shall apply to sudden and accidental pollution events. Any coverage restriction as to time limit for discovery of a pollution incident and/or a time limit for notice to the insurer must be accepted by the DISTRICT. The insurance coverage shall also respond to cleanup cost. This coverage may be written in combination with the commercial general liability insurance or professional liability insurance.

CITY's construction contractor(s) shall maintain Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. The policy shall be endorsed to state that the general aggregate limit of liability shall apply separately to this contract. Any self-insured retention/deductible amount shall be submitted to the DISTRICT for review and approval. If CITY's construction contractor(s) maintains broader coverage and/or higher limits than the minimums shown above, the DISTRICT requires and shall be entitled to the broader coverage and/or higher limits maintained by CITY's construction contractor(s). Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the DISTRICT.

In the event, CITY's construction contractor(s) encounters materials on the site that is believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, CITY's construction contractor(s) shall immediately stop work

COOPERATIVE FUNDING AGREEMENT

Bundy Canyon Road Widening – Line F Extension

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EXHIBIT B

in the area affected and report the condition to the DISTRICT in writing. The work in the affected area shall not thereafter be resumed except by written agreement of the DISTRICT and CITY, if in fact the material is asbestos or polychlorinated biphenyl (PCB) and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the DISTRICT and CITY.

CITY's construction contractor(s) shall not be required to perform without consent any work relating to asbestos or polychlorinated biphenyl (PCB).

F. General Insurance Provisions – All Lines:

- i. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A:8) unless such requirements are waived, in writing, by the DISTRICT Risk Manager. If the DISTRICT's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- ii. CITY's construction contractor(s) must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the DISTRICT's Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention deemed unacceptable to DISTRICT, and at the election of the DISTRICT's Risk Manager, CITY's construction contractor(s) carriers shall either: 1) reduce or eliminate such self-insured retention with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- iii. CITY's construction contractor(s) shall cause their insurance carrier(s) to furnish DISTRICT with 1) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; and 2) if requested to do so orally or in writing by DISTRICT's Risk Manager, provide original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If CITY's construction contractor(s) insurance carrier(s) policies does not meet the minimum notice requirement found herein, CITY's construction contractor(s) shall cause CITY's construction

COOPERATIVE FUNDING AGREEMENT

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EXHIBIT B

- contractor(s) insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.
- iv. In the event of a material modification, cancellation, expiration or reduction in coverage, this Agreement shall terminate forthwith, unless DISTRICT receives, prior to such effective date, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto, evidencing coverage's set forth herein and the insurance required herein is in full force and effect. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.
 - v. It is understood and agreed by the Parties hereto that CITY's construction contractor(s) insurance shall be construed as primary insurance, and DISTRICT's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.
 - vi. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or there is a material change in the equipment to be used in the performance of the scope of work; or the term of this Agreement, including any extensions thereof, exceeds five (5) years, DISTRICT reserves the right to adjust the types of insurance required and the monetary limits of liability required under this Agreement, if in the DISTRICT Risk Manager's reasonable judgment, the amount or type of insurance carried by CITY's construction contractor(s) has become inadequate.
 - vii. CITY's construction contractor(s) shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
 - viii. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.
 - ix. CITY's construction contractor(s) agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

COOPERATIVE FUNDING AGREEMENT

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