

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



ITEM: 11.3
(ID # 14915)

MEETING DATE:

Tuesday, June 08, 2021

FROM: FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of First Amendment to Cooperative Agreement Between the Riverside County Flood Control and Water Conservation District and the City of Moreno Valley for Sunnymead Flaming Arrow Drive Storm Drain, Stage 1, Project No. 4-0-00365, Nothing Further is Required Under CEQA, District 5. [Not-to-Exceed \$431,550 – District Zone 4 Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the First Amendment to Cooperative Agreement (First Amendment) between the District and the City of Moreno Valley (City);
2. Authorize the Chair to execute the First Amendment documents on behalf of the District;
3. Authorize the District's General Manager-Chief Engineer to approve, sign and execute any future non-substantive amendments to the Cooperative Agreement for Sunnymead – Flaming Arrow Drive Storm Drain, Stage 1 that do not increase the cost to the District and do not materially change the scope of services, subject to approval as to form by County Counsel; and
4. Direct the Clerk of the Board to return two (2) copies of the executed First Amendment to the District.

ACTION: Policy

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

5/26/2021

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, 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: June 8, 2021
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	\$ 431,550	\$ 0	\$ 431,550	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: District Funds - 100% (See Additional Fiscal Information)			Budget Adjustment: No	
			For Fiscal Year: 20/21	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On April 7, 2020 (Agenda Item No. 11.3), the Board of Supervisors of the District approved the Cooperative Agreement (Agreement) between the District and the City, which set forth the terms and conditions whereby the District would contribute funding to the City for construction of the Sunnymead – Flaming Arrow Drive Storm Drain, Stage 1 facility (Facility) as part of a City-administered public works construction project. The City advertised the Facility for public works construction bids. The lowest responsible and responsive bid came in substantially higher than the originally estimated construction costs.

The First Amendment is necessary to change the District's financial contribution in the Agreement approved on April 7, 2020 from the original not to exceed amount of Three Hundred Fifty-Five Thousand Five Hundred Ten Dollars (\$355,510) to a new not to exceed amount of Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694). Said Facility is to be inspected, constructed, operated and maintained by the City. Upon completion of construction, the City will assume ownership and responsibility for the operation and maintenance of the Facility.

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

Environmental Findings

The Board of Supervisors of the District approved the Agreement on April 7, 2020 (Agenda Item No. 11.3) and determined the Facility is categorically exempt under State Guidelines Sections 15061(b)(1) or (b)(3). The related Notice of Exemption was subsequently filed. This First Amendment only changes the District's financial contribution from the original not to exceed amount of Three Hundred Fifty-Five Thousand Five Hundred Ten Dollars (\$355,510) to a new not to exceed amount of Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694). The First Amendment is between public agencies to provide funding, rights and responsibilities involving certain storm drain pipe, curb inlets and catch basins along St. Christopher Lane. The First Amendment does not authorize to any extent whatsoever actual physical development of the underlining property. Such development, if it occurs at all, will be

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

the result of subsequent actions subject to further public agency approvals and CEQA review by the City of Moreno Valley. Therefore, the First Amendment is not a project within the meaning of CEQA because it will not, in and of itself, result in a physical change to the environment. No further CEQA analysis 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. Upon construction completion, this project will (i) improve flood protection; (ii) provide a safe outlet for drainage connections from the adjacent properties (i.e., Saint Christopher Church); and (iii) and will benefit residents and businesses in the area.

Prev. Agn. Ref.: MT# 12071, 11.3 of 04/07/2020

Additional Fiscal Information

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 Facility 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. The First Amendment will not affect any MSHCP conservation areas or conflict with and MSHCP policies.

The District is providing up to \$418,694 in funding to the City for project construction. Sufficient funding is available in the District's Zone 4 budget and will be included in the proposed budget in future years as appropriate. Future operation and maintenance costs associated with the project will accrue to the City.

Funding Summary:

Previous Estimated Project Contribution	\$ 355,510
Current Additional Contribution	\$ 63,184
<hr/>	
Maximum District Contribution to the City	\$ 418,694
Estimated MSHCP Mitigation Fee	\$ 12,856
(3% of Estimated Construction Bid Amount of \$428,540)	
<hr/>	
Total Estimated District Cost	\$ 431,550

SOURCE OF FUNDS: (Continued)

- 25140-947460-536200 Contribution to Non-County Agency (Zone 4— 97%)

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

- 25140-947460-523320 License and Permits (Zone 4 - 3%)

ATTACHMENTS:

1. Vicinity Map
2. First Amendment to Cooperative Agreement

AK:blm

P8/237391



Jason Farin, Principal Management Analyst

6/1/2021



Gregory V. Priamos, Director County Counsel

5/26/2021

FIRST AMENDMENT TO COOPERATIVE AGREEMENT

Sunnymead – Flaming Arrow Drive Storm Drain, Stage 1
RCFC Project No. 4-0-00365
City Project No. 804 0014

This First Amendment to Cooperative Agreement ("FIRST AMENDMENT"), dated as of June 8, 2021, is entered into by the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and the City of Moreno Valley, a municipal corporation ("CITY"). DISTRICT and CITY are individually referred to herein as "party" and collectively referred to herein as "parties".

RECITALS

A. On April 7, 2020 [DISTRICT's Board Agenda Item No. 11.3], DISTRICT and CITY entered into a Cooperative Agreement ("AGREEMENT"), which set forth the terms and conditions under which DISTRICT will design and contribute funding in support of the CITY's efforts to construct the Sunnymead – Flaming Arrow Drive Storm Drain, Stage 1 storm drain systems ("PROJECT"); and

B. Pursuant to Section I.6 of AGREEMENT, CITY completed PROJECT's advertisement for public works construction bids. The lowest responsible and responsive bid came in substantially higher than the originally estimated DISTRICT financial contribution, which was not to exceed a total sum of Three Hundred Fifty-Five Thousand Five Hundred Ten Dollars (\$355,510.00). Therefore, DISTRICT and CITY wish to increase the amount of DISTRICT's financial contribution for PROJECT; and

C. Pursuant to Section III.13 of the AGREEMENT, the AGREEMENT may be changed or modified only upon the written consent of the parties hereto.

NOW, therefore, in consideration of the preceding recitals and the mutual covenants hereinafter contained, the parties hereto mutually agree to amend AGREEMENT as

follows, effective upon approval of this FIRST AMENDMENT by DISTRICT's Board of Supervisors and CITY:

1. RECITALS 'F' of AGREEMENT is hereby amended to replace the phrase "Three Hundred Fifty-Five Thousand Five Hundred Ten Even Dollars (\$355,510)" with the phrase "Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694)"; and
2. The last sentence in RECITALS 'G' of AGREEMENT is hereby amended as follows:

DISTRICT CONTRIBUTION shall not exceed a total sum of Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694); and
3. Section I.8 (i) of AGREEMENT is hereby amended as follows:

(i) DISTRICT CONTRIBUTION at the time of providing written notice of the award of a construction contract as set forth in Section I.7., provided that DISTRICT CONTRIBUTION shall not exceed the total sum of Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694); and
4. The last sentence in Section I.18 of AGREEMENT is hereby amended as follows:

If applicable, invoice DISTRICT for CONSTRUCTION CHANGE ORDERS CONTRIBUTION, subject to and provided that DISTRICT CONTRIBUTION shall not exceed the sum of Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694); or DECREASED CONTRIBUTION, whichever is lower; and
5. Section II.5 (i) of AGREEMENT is hereby amended as follows:

(i) DISTRICT CONTRIBUTION, as set forth in herein, subject to and provided that DISTRICT CONTRIBUTION shall not exceed Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694); and

6. Section II.6 (i) of AGREEMENT is hereby amended as follows:

(i) DISTRICT CONTRIBUTION shall not exceed a total sum of Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694); and

7. The first sentence in Section III.1 of AGREEMENT is hereby amended as follows:

DISTRICT CONTRIBUTION shall not exceed a total sum of Four Hundred Eighteen Thousand Six Hundred Ninety-Four Dollars (\$418,694).

8. Except to the extent specifically deleted, added to, or amended herein, all of the terms, covenants and conditions of said AGREEMENT executed on April 7, 2020 remain in full force and effect between the parties hereto.

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

10. Each party of this FIRST AMENDMENT agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this FIRST AMENDMENT. The parties further agree that the electronic signatures of the parties included in this FIRST AMENDMENT are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature

means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to CUETA as amended from time to time. CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

//

//

IN WITNESS WHEREOF, the parties hereto have executed this FIRST AMENDMENT
 on June 8, 2021
 (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, Chair
 Riverside County Flood Control and Water
 Conservation District Board of Supervisors

APPROVED AS TO FORM:

GREGORY P. PRIAMOS
 County Counsel

By [Signature]
 SARAH K. MOORE
 Deputy County Counsel

ATTEST:

KECIA HARPER
 Clerk of the Board

By [Signature]
 Deputy

(SEAL)



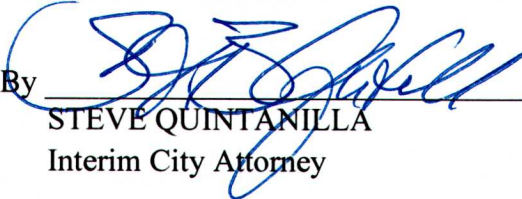
First Amendment to Cooperative Agreement: City of Moreno Valley
 Sunnymead Flaming Arrow Drive Storm Drain, Stage 1
 RCFC Project No. 4-0-00365
 City Project No. 804 0014
 03/30/21
 AK:blm

RECOMMENDED FOR APPROVAL:

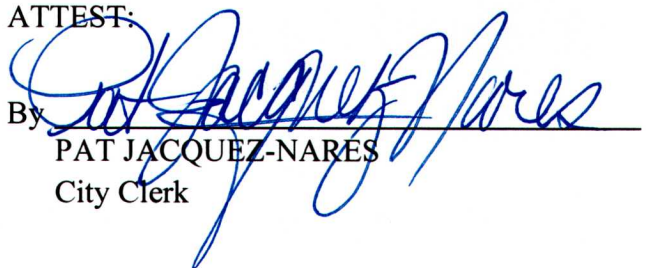
CITY OF MORENO VALLEY

By 
MICHAEL L. WOLFE
Assistant City Manager
Public Works Director/ City Engineer

APPROVED AS TO FORM:

By 
STEVE QUINTANILLA
Interim City Attorney

ATTEST:

By 
PAT JACQUEZ-NARES
City Clerk

(SEAL)

First Amendment to Cooperative Agreement: City of Moreno Valley
Sunnymead Flaming Arrow Drive Storm Drain, Stage 1
RCFC Project No. 4-0-00365
City Project No. 804 0014
03/30/21
AK:blm