

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



ITEM: 11.6  
(ID # 16784)

**MEETING DATE:**

Tuesday, July 27, 2021

**FROM:** FLOOD CONTROL DISTRICT:

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of Cooperative Funding Agreement Between the Riverside County Flood Control and Water Conservation District and the City of Moreno Valley for Sunnymead Master Drainage Plan Line F, Stage 5 and Sunnymead Master Drainage Plan Line F-7, Stage 1, Project Nos. 4-0-00290 and 4-0-00656, CEQA Exempt, District 5. [\$5,935,250 Total Cost - District Funds 100%]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that the Cooperative Funding Agreement is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3), the "Common Sense" exemption;
2. Approve the Cooperative Funding Agreement between the Riverside County Flood Control and Water Conservation District (District) and the City of Moreno Valley (City);
3. Authorize the Chair of the Board of Supervisors for the District to execute the Cooperative Funding Agreement documents on behalf of the District; and
4. Direct the Clerk of the Board to return two (2) copies of the executed Cooperative Funding Agreement to the District.

**ACTION: Policy**

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 7/15/2021

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Perez, 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: July 27, 2021  
xc: Flood

Kecia R. Harper  
Clerk of the Board

By:   
Deputy



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<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 300,000	\$ 350,000	\$ 5,935,250	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: Zone 4 Funds 100% (See additional Fiscal Information)</b>			<b>Budget Adjustment: No</b>	
			<b>For Fiscal Year: 21/22 – 25/26</b>	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

This Cooperative Funding Agreement (Agreement) sets forth the terms and conditions by which the District will contribute funding to the City of Moreno Valley (City) for the design and construction of flood control facilities: Sunnymead Master Drainage Plan (MDP) Line F, Stage 5 and Sunnymead MDP Line F-7, Stage 1.

Sunnymead MDP Line F will run adjacent to Sunnymeads Drive from approximately Atlantic Circle to Surtees Court, and Sunnymead MDP Line F-7 will run adjacent to Hemlock Avenue from approximately Graham Street to Calle Sombra, both in the city of Moreno Valley.

Upon completion of construction, the District will assume ownership and responsibility of the operation and maintenance of Sunnymead MDP Line F, Stage 5 and Sunnymead MDP Line F-7, Stage 1. The City will assume ownership and responsibility of operation and maintenance of street inlets and connector pipes located within the City's right of way.

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

**Environmental Findings**

The Agreement is exempt from CEQA pursuant to the State CEQA Guidelines Section 15061(b)(3), the "Common Sense" exemption, which provides, "The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The Agreement does not authorize to any extent whatsoever actual physical development. Such development, if it occurs at all, will be the result of subsequent actions subject to CEQA review by the City prior to construction. The Agreement merely establishes the terms by which the District will contribute funding to the City and assume ownership and responsibility for operation and maintenance of completed facilities. It can be seen with certainty that there is no possibility the Agreement will have a significant effect on the environment.



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

**Impact on Residents and Businesses**

The project will mitigate flooding for the homes and apartments along Hemlock Avenue, the businesses on Sunnymead Boulevard, and the homes and local streets between Sunnymead Boulevard and Eucalyptus Avenue.

**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 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. The City is the Lead Agency and the MSHCP permittee responsible for compliance with the applicable MSHCP requirements.

The anticipated total cost for the project is \$8,450,000. Therefore, in addition to the District's contribution of \$5,825,000, the City is pursuing a grant for \$2,625,000 from the Federal Emergency Management Agency for the project.

The District is providing up to \$5,825,000 in funding to the City. Sufficient funding is available in the District's Zone 4 budget for FY 2021-2022 and will be included in the proposed budget in future years as appropriate and necessary. Future operation and maintenance costs associated with the mainline system will accrue to the District.

**Funding Summary**

Estimated Design Contribution	\$ 300,000
Estimated Permit Contribution	\$ 150,000
Estimated Mitigation Contribution	\$ 200,000
Estimated Acquisition Contribution	\$1,500,000
Estimated Construction Contribution	\$3,675,000
Maximum District Contribution to the City	\$5,825,000
Estimated MSHCP Mitigation Fee (3% of Estimated construction Contribution)	\$ 110,250
Total Estimated District Cost	<b>\$5,935,250</b>

**SOURCE OF FUNDS:**

- 25140-947460-536200 Contribution to Non-County Agency – Zone 4

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- 25140-947460-523220 License and Permits – Zone 4

**Attachment:**

1. Vicinity Map
2. Cooperative Agreement

BB:mc  
P8/239063  
MT#16784



Jason Farin, Principal Management Analyst 7/20/2021



Gregory V. Prietos, Director County Counsel 7/15/2021

**FUNDING AGREEMENT**

Sunnymead MDP – Line F, Stage 5  
Sunnymead Master Drainage Plan Line F-7, Stage 1  
Project Nos. 4-0-00290, 4-0-00656  
MS 156

The Funding Agreement ("Agreement"), dated as of \_\_\_\_\_, 2021, is entered in 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 collectively referred to herein as "parties" and individually as "party". The parties hereto agree as follows:

**RECITALS**

A. DISTRICT has budgeted for and CITY has plans to design and construct Sunnymead Master Drainage Plan (MDP) Line F, Stage 5 ("LINE F") and Sunnymead Master Drainage Plan Line F-7, Stage 1 ("LINE F-7"). Upon construction completion, LINE F and LINE F-7 will mitigate flooding for the homes and apartments along Hemlock Avenue, the businesses on Sunnymead Boulevard, and the homes and local streets between Sunnymead Boulevard and Eucalyptus Avenue in the City of Moreno Valley; and

B. LINE F consists of approximately 3,500 lineal feet of underground storm drain as shown on District Drawing No. 4-1157 and as shown in concept in blue on Exhibit "A", attached hereto and made a part hereof. At the downstream terminus, LINE F will connect to the existing storm drain facility as shown on District Drawing No. 4-0359, east of Atlantic Circle, and continue north under the 60 Freeway and at the upstream terminus connect to the existing storm drain facility as shown on District Drawing No. 4-0411. Line F will also include two detention basins, DETENTION BASIN A, as shown in in concept in red on Exhibit "A", attached hereto and made a part hereof, and DETENTION BASIN B, as shown in orange on Exhibit "A", attached hereto and made a part hereof. LINE F will also utilize the attenuation from an existing



basin located just north of the 60 Freeway as shown in concept in pink on Exhibit "A" attached hereto and made part hereof; and

C. Associated with the construction of LINE F is the construction of LINE F-7 as shown on District Drawing No. 4-1157 and as shown in concept in green on Exhibit "A", attached hereto and made a part hereof. LINE F-7 consists of approximately 1,500 lineal feet of underground storm drain system consisting of reinforced concrete pipes ranging between thirty-six inches (36") and sixty inches (60") in diameter and will run along Hemlock Avenue from Graham Street to approximately Calle Sombra; and

D. LINE F, LINE F-7, DETENTION BASIN A, and DETENTION BASIN B are hereinafter called "DISTRICT FACILITIES"; and

E. Associated with the construction of DISTRICT FACILITIES is the construction of certain street inlets and connector pipes located within CITY rights of way ("APPURTENANCES"); and

F. Together, DISTRICT FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

G. CITY plans to advertise, award and administer a public works construction contract for PROJECT during Fiscal Year 2022/2023 through 2025/2026; and

H. CITY is willing to assume the lead role for PROJECT, and therefore will provide the administrative, technical, managerial, and support services necessary to plan, design, and construct PROJECT; and

I. Due to the parties' mutual interest in PROJECT, DISTRICT wishes to support CITY's efforts by providing a financial contribution to implement PROJECT; and

J. Total PROJECT cost is anticipated to be Eight Million Four Hundred and Fifty Thousand Dollars (\$8,450,000). The CITY is pursuing a grant for Two Million Six Hundred and Twenty-Five Thousand Dollars (\$2,625,000) from the Federal Emergency Management

Agency (FEMA) for the PROJECT. The DISTRICT is willing to provide Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) toward the PROJECT. All excess costs shall be borne by the CITY.

K. DISTRICT's financial contributions to PROJECT shall be as follows, subject to the not to exceed amount provided in Recital K below:

- i. One hundred percent (100%) of engineering design cost, costs associated with engineering design, hydrology and hydraulics, geo-technical analysis, and potholing required to complete the design of PROJECT ("DESIGN CONTRIBUTION"); and
- ii. One hundred percent (100%) of all costs associated with the preparation, application and obtaining the environmental clearance and permits required for PROJECT ("REGULATORY PERMITS COST"); and
- iii. One hundred percent (100%) of the actual costs (not to exceed appraised value and estimated escrow and closing costs) for right of way acquisition, rights of entry and construction easements for the storm drain system only ("ACQUISITION COST"); and
- iv. One hundred percent (100%) of the lowest responsible bid contract price for construction of PROJECT ("CONSTRUCTION CONTRIBUTION"); and
- v. One hundred percent (100%) of the cost associated with construction, surveying, compaction and material testing, inspection, and construction management of PROJECT ("CONSTRUCTION ADMINISTRATION CONTRIBUTION"); and



L. Altogether, DESIGN CONTRIBUTION, REGULATORY PERMITS COST, ACQUISITION COST, CONSTRUCTION ADMINISTRATION CONTRIBUTION, and CONSTRUCTION CONTRIBUTION are hereinafter called "TOTAL DISTRICT CONTRIBUTION". TOTAL DISTRICT CONTRIBUTION for PROJECT shall not exceed a total of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000); and

M. The purpose of this Agreement is to memorialize the mutual understandings by and between CITY and DISTRICT with respect to the design, 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 that the above recitals are true and correct and incorporated into the terms of this Agreement and 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. Upon execution of this Agreement, issue a first invoice to DISTRICT (Attn: Special Projects Section) for fifty percent (50%) of the DESIGN CONTRIBUTION, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

3. Prepare or cause to be prepared, the necessary plans, bid documents, and specifications for PROJECT, hereinafter called "IMPROVEMENT PLANS", in accordance with the applicable DISTRICT and CITY standards, and submit to DISTRICT (Attn: Special Projects

Section) for its review, comment, and approval prior to advertising PROJECT for construction bids. CITY shall not permit any change to, or modification of, DISTRICT approved and CITY approved IMPROVEMENT PLANS without DISTRICT's prior written permission and consent.

4. Issue a second invoice to DISTRICT (Attn: Special Projects Section) for the remaining fifty percent (50%) of DESIGN CONTRIBUTION, after IMPROVEMENT PLANS have been signed by all parties, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

5. Prior to advertising PROJECT for public works construction contract, secure all necessary permits, approvals or agreements required by any federal, state and local resource or regulatory agencies pertaining to PROJECT. Such documents may include, but are not limited to, a Section 404 permit issued by the U.S. Army Corps of Engineers, a Section 401 Water Quality Certification issued by the California Regional Water Quality Control Board (CRWQCB), a Streambed Alteration Agreement issued by the California Department of Fish and Wildlife, and a National Pollutant Discharge Elimination System Permit issued by the State Water Resources Control Board or CRWQCB and Western Riverside County Regional Conservation Authority ("REGULATORY PERMITS"). CITY shall also provide DISTRICT an opportunity to review, comment on and approve, as appropriate, all applications for REGULATORY PERMITS prior to submitting the application to the applicable regulatory agencies.

6. Ensure the REGULATORY PERMITS, including any subsequent renewal or amendments thereto, will not (i) unreasonably impede DISTRICT's ability to perform all necessary operation and maintenance activities for DISTRICT FACILITIES, as determined by DISTRICT, or (ii) include any stipulations that would result in additional mitigation obligations being placed upon DISTRICT for maintenance operations within PROJECT's right of way.

7. Assume sole responsibility for compliance with the requirements of all REGULATORY PERMITS, including any amendments thereto, pertaining to the construction, operation, and maintenance of PROJECT.

8. Prior to advertising PROJECT for public works construction contract, secure all necessary rights of way, rights of entry and construction easements, and acquire all parcels necessary to construct, inspect, operate and maintain PROJECT ("ROW DOCUMENTS").

9. Keep an accurate accounting of all (i) costs associated with obtaining REGULATORY PERMITS, (ii) costs associated with obtaining ROW DOCUMENTS, and (iii) cost associated with CONSTRUCTION ADMINISTRATION CONTRIBUTION. The accounting for REGULATORY PERMITS should be included when invoicing DISTRICT for payment of REGULATORY PERMITS COSTS, as set forth in Section I.12, the accounting for ROW DOCUMENTS should be included when invoicing DISTRICT for payment of ACQUISITION COST, as set forth in Section I.13, and the accounting for CONSTRUCTION ADMINISTRATION CONTRIBUTION should be included when invoicing DISTRICT for payment of CONSTRUCTION ADMINISTRATION CONTRIBUTION, as set forth in Section I.16.

10. Prior to awarding a public works construction contract for PROJECT, provide DISTRICT seven (7) calendar days following construction bid opening to review and approve or reject bids for construction of PROJECT. DISTRICT may only reject bids found by DISTRICT to be unreasonably high.

11. Advertise, award, and administer a public works construction contract for PROJECT of the 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 IMPROVEMENT PLANS and any subsequent addenda thereto.



12. Following award of the public works construction contract for PROJECT, issue a third invoice to DISTRICT (Attention: Special Projects Section) for REGULATORY PERMITS COSTS, as specified in Section I.9, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

13. Following award of the public works construction contract for PROJECT, issue a fourth invoice to DISTRICT (Attention: Special Projects Section) for ACQUISITION COST incurred by CITY. However, the total amount invoiced to DISTRICT for ACQUISITION COST shall not exceed one hundred percent (100%) of the appraised values for all acquired parcels plus customary escrow and closing costs for PROJECT. TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

14. Provide DISTRICT with written notice (Attention: Special Projects Section) that CITY has awarded a public works construction contract for PROJECT. The written notice shall include CITY contractor's actual bid amounts for PROJECT, setting forth the lowest responsible bid contract amount.

15. At the time of providing written notice of the award of a construction contract as set forth in Section I.14, issue a fifth invoice to DISTRICT (Attention: Special Projects Section) for the payment of CONSTRUCTION CONTRIBUTION subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

16. At the time of providing written notice of the award of a construction contract as set forth in Section I.14, issue a sixth invoice to DISTRICT (Attention: Special Projects Section) for the payment of CONSTRUCTION ADMINISTRATION CONTRIBUTION, as specified in Section I.9, subject to and provided that TOTAL DISTRICT

CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

17. Furthermore, CITY shall be responsible to pay any amounts in excess of TOTAL DISTRICT CONTRIBUTION for PROJECT.

18. Prior to commencing construction of PROJECT, procure or caused to be procured insurance coverages during the term of this Agreement. CITY shall require its PROJECT 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. 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. At minimum, the procured insurance coverages should adhere to DISTRICT's required insurance provided in Exhibit "B", attached hereto and made a part hereof.

19. Prior to commencing construction of PROJECT, 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: Special Project Section) in writing at least twenty (20) days prior to conducting the pre-construction meeting.

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

21. Construct or cause to be constructed PROJECT pursuant to a CITY administered public works contract in accordance with IMPROVEMENT PLANS approved by DISTRICT and CITY.

22. 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.

23. Relocate or cause to be relocated, at its sole cost and expense, all conflicting CITY owned utilities. CITY shall also order the relocation of all other utilities installed by permit or franchise within CITY rights of way which conflict with the construction of PROJECT.

24. Inspect PROJECT construction or cause PROJECT's construction to be inspected by its construction manager, and pay all costs associated therewith.

25. Grant DISTRICT, by execution of this Agreement, the right to enter upon property owned or controlled by CITY where necessary and convenient for the purpose of gaining access to and performing inspection service for any CITY's proposed storm drain connections to any DISTRICT maintained facilities.

26. Upon completion of PROJECT construction and CITY's acceptance thereof, accept ownership operation and maintenance of APPURTENANCES.

27. Upon completion of PROJECT construction, provide DISTRICT with a copy of CITY's Notice of Completion.

28. Upon completion of PROJECT construction but prior to DISTRICT's acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide DISTRICT with appropriate engineering documentation necessary to establish that DISTRICT FACILITIES were constructed in accordance with the DISTRICT-approved and CITY-approved IMPROVEMENT PLANS.

29. Upon completion of PROJECT construction, but prior to DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, CITY shall convey, or cause to be conveyed, to DISTRICT the flood control easement(s), or grant deed(s) of fee title, where appropriate, as deemed necessary by DISTRICT for the operation and



maintenance of DISTRICT FACILITIES. 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(ies) described in the easement(s) or grant deed(s).

30. At the time of recordation of the conveyance document(s) as set forth in Section I.29, 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 each fee parcel 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.

31. Keep an accurate accounting of all PROJECT costs and provide this accounting to DISTRICT with CITY's Notice of Completion, as set forth in Section I.27. The final accounting of construction costs shall include a detailed breakdown of all costs to establish the actual cost of construction for DISTRICT and CITY approved IMPROVEMENT PLANS. TOTAL DISTRICT CONTRIBUTION shall not exceed Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

32. Refund to DISTRICT, at the time of providing a Notice of Completion as set forth in Section I.27, any unexpected portions of TOTAL DISTRICT CONTRIBUTION.

## 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 thirty (30) business days of receiving CITY's first invoice to DISTRICT, pay CITY for fifty percent (50%) of DESIGN CONTRIBUTION, as set forth in

Section I.2, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

3. Review the IMPROVEMENT PLANS in accordance with the applicable DISTRICT and CITY standards and approve IMPROVEMENT PLANS prior to advertising PROJECT for construction bids as set forth on Section I.3.

4. Within thirty (30) business days of receiving of CITY's second invoice to DISTRICT, pay CITY for the remaining fifty percent (50%) of DESIGN CONTRIBUTION following the signing of IMPROVEMENT PLANS, as set forth in Section I.4, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

5. Review, comment, and make a determination, as appropriate, all applications for REGULATORY PERMITS prior to CITY submitting the applications to the applicable regulatory agencies, as set forth in Section I.5.

6. Within thirty (30) business days of receiving CITY's third invoice to DISTRICT, pay CITY for REGULATORY PERMITS COSTS as set forth in Section I.12, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

7. Within seven (7) calendar days following CITY's public works construction bid opening, review, and approve or reject bids for construction of PROJECT, as set forth in Section I.13. DISTRICT may only reject bids found by DISTRICT to be unreasonably high. DISTRICT shall not unreasonably withhold approval of contract.

8. Within thirty (30) business days of receiving CITY's fourth invoice to DISTRICT, pay CITY for the ACQUISITION COST incurred by CITY following award of the

construction contract for PROJECT, as set forth in Section I.13, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

9. Within thirty (30) business days of CITY awarding PROJECT construction contract, pay the Western Riverside County Regional Conservation Agency the costs associated with the Implementing Agreement for the Western Multiple Species Habitat Conservation Plan, which is either the lesser of (i) three percent (3%) of the lowest responsible bid price, or (ii) three percent (3%) of lowest responsible bid price less the value of applicable project-specific mitigation.

10. Within thirty (30) business days of receiving of CITY's fifth invoice to DISTRICT, pay CITY for CONSTRUCTION CONTRIBUTION as set forth in Section I.15, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

11. Within thirty (30) business days of receiving of CITY's sixth invoice to DISTRICT, pay CITY for the CONSTRUCTION ADMINISTRATION CONTRIBUTION as set forth in Section I.16, subject to and provided that TOTAL DISTRICT CONTRIBUTION shall not exceed the total amount of Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT.

12. Conduct periodic inspections if the proposed storm drain connects into DISTRICT maintained facilities, as set forth in Section I.25.

13. Upon receipt of CITY's Notice of Completion that PROJECT construction is substantially complete, conduct a final inspection of PROJECT.

14. Accept ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES once all of the following takes place: (i) DISTRICT's inspection of



DISTRICT FACILITIES in accordance with Section II.11., (ii) DISTRICT's acceptance of DISTRICT FACILITIES construction as being complete, (iii) DISTRICT's receipt of CITY's recorded Notice of Completion as set forth in Section I.27., (iv) DISTRICT's receipt of appropriate engineering documentation as set forth in Section I.28., (v) DISTRICT's acceptance of all necessary rights of way, easements, or grant deeds as set forth in Section I.29., and (vi) DISTRICT's receipt of policies of title insurance for the rights of way, easements, or grant deeds as set forth in Section I.30.

### 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 Five Million Eight Hundred Twenty-Five Thousand Dollars (\$5,825,000) for PROJECT and shall be used by CITY solely for the purpose of the design and construction of said 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 CONSTRUCTION CONTRIBUTION, CITY shall refund the difference to DISTRICT within thirty (30) days of filing the Notice of Completion for PROJECT.

3. 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.

4. Prior to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES, DISTRICT FACILITIES shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, in the sole discretion

of DISTRICT, DISTRICT FACILITIES are not in an acceptable condition, corrections will be made at sole expense of CITY.

5. 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.

6. CITY shall indemnify, defend 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 or 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 or CITY's construction contractor(s), their 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.

7. With respect to any action or claim subject to indemnification herein by CITY, CITY 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's indemnification to Indemnitees as set forth herein.

8. CITY's obligation hereunder shall be satisfied when CITY 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.

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

10. 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 from indemnifying the Indemnitees to the fullest extent allowed by law.

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 to be construed in accordance with the laws of the State of California.

13. 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.



14. Neither CITY nor DISTRICT shall assign this Agreement without the written consent of the other party. Any attempt to delegate or assign any interest herein shall be deemed void and of no effect.

15. 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.

16. 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: Contracts Services Section

CITY OF MORENO VALLEY  
14177 Frederick Street  
Moreno Valley, CA 92552  
Attn: Quang Nguyen

17. 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.

18. 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.

19. 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 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.

20. 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.

21. 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.

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

23. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Each Party of this Agreement 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 Agreement. The parties further agree that the electronic signatures of the parties included in this Agreement 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.

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

July 27, 2021  
(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, Chair  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER  
Clerk of the Board

By *Sarah K. Moore*  
SARAH K. MOORE  
Deputy County Counsel

By *Dianna Raso*  
Deputy

(SEAL)

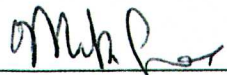


Funding Agreement w/City of Moreno Valley  
Sunnymead MDP Line F, Stage 5  
Sunnymead Master Drainage Plan Line F-7, Stage 1  
05/26/21  
BB:blm



RECOMMENDED FOR APPROVAL:

CITY OF MORENO VALLEY

By  \_\_\_\_\_  
MIKE LEE  
City Manager

APPROVED AS TO FORM:

ATTEST:

By  \_\_\_\_\_  
STEVE QUINTANILLA  
Interim City Attorney

By  \_\_\_\_\_  
PAT JACQUEZ-NARES  
City Clerk

(SEAL)

Funding Agreement w/City of Moreno Valley  
Sunnymead MDP Line F, Stage 5  
Sunnymead Master Drainage Plan Line F-7, Stage 1  
05/26/21  
BB:blm