

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



ITEM: 11.6
(ID # 18804)

MEETING DATE:
Tuesday, April 26, 2022

FROM : FLOOD CONTROL DISTRICT AND General Manager-Chief Engineer :

SUBJECT: FLOOD CONTROL DISTRICT: Approval of the Funding Agreement Between the Riverside County Flood Control and Water Conservation District and the County of Riverside for Van Buren Sewer Improvement Project, Project No. 2-6-10042, District 1. [\$6,440,000 Not-to-Exceed Cost – District Zone 2 Funding 100%] (Companion Item MT Item No. 18793)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Funding Agreement ("Agreement") between the Riverside County Flood Control and Water Conservation District ("District") and the County of Riverside ("County");
2. Authorize the Chairman of the District's Board of Supervisors to execute the Agreement documents on behalf of the District; and
3. Direct the Clerk of the Board to return two (2) fully executed original Agreement documents to the District and one (1) executed original Agreement to the Riverside County Office of Economic Development Department.

ACTION:Policy

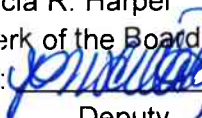
Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

4/13/2022

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Perez, and Hewitt
Nays: None
Absent: Washington
Date: April 26, 2022
xc: Flood, O.E.D.

Kecia R. Harper
Clerk of the Board
By: 
Deputy

(Companion Item 3.36)

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| FINANCIAL DATA | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost |
|---|-----------------------------|--------------------------|--------------------------------|---------------------|
| COST | \$ 0 | \$ 3,220,000 | \$ 6,440,000 | \$ 0 |
| NET COUNTY COST | \$ 0 | \$ 0 | \$ 0 | \$ 0 |
| SOURCE OF FUNDS: Zone 2 Funds 100% (See Additional Fiscal Information) | | | Budget Adjustment: No | |
| | | | For Fiscal Year: 22/23 – 24/25 | |

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Funding Agreement ("Agreement") sets forth the terms and conditions by which the District will contribute up to Six Million Four Hundred Forty Thousand Dollars (\$6,440,000) in funding to the County for construction of the Van Buren Sewer Improvement, which comprises of an extension of the sanitary sewer system along the Van Buren corridor ("Project") pursuant to a separate agreement with the City of Riverside ("City"). The general area of Van Buren Boulevard near the southern boundary of the city of Riverside and unincorporated community of Woodcrest has generally relied on individual septic systems for wastewater disposal, which have been the subject of water quality concerns. This Project is expected to support water quality improvements to Goldenstar Creek, an impaired waterbody listed by the Environmental Protection Agency in 2011 https://www.waterboards.ca.gov/water_issues/programs/tmdl/2012state_ir_reports/02262.shtml due to the presence of Escherichia Coli (E. Coli). Septic systems are a common contributor to bacterially impaired waterbodies.

The County is partnering with the City's Public Works Department to complete the Project. The County does not currently have the funds to support the Project. However, due to the potential water quality benefits of the Project, the District is willing to contribute funding to the County for the County's share of the Project costs. The City will take the lead in the construction of the Project, and the County will contribute the District funds to the City pursuant to the separate agreement, which was approved by City's Council on April 5, 2022 and is set for the County's Board agenda for approval this same date. The funding injection from the District will accelerate the delivery of the Project and its potential water quality benefits. Further, the County will be reimbursing the District over time using City sewer connection fees that are collected within the unincorporated area by the City and passed to the County.

County Counsel has approved the Agreement as to legal form. A companion item for this Agreement appears on the County's Board agenda this same date.

Impact on Residents and Businesses

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The District's financial contribution toward the County's project is funded by ad valorem property tax revenue and entails no new fees, taxes nor bonded indebtedness to residents and businesses. Upon construction completion, the Project would serve the existing community by promoting improvements to surface and ground water quality. The Project will facilitate the connection of unincorporated businesses and residential communities to the City's regional sewer collection system.

Additional Fiscal Information

Total Project cost is estimated at \$14,000,000. The District is contributing up to \$6,440,000 to the County for the Project. Sufficient funding will be available in the District's Zone 2 budget for FY 2022/23 and will be included in the proposed budget in the future years as appropriate and necessary.

Funding Summary:

| | |
|-------------------------------|--------------|
| Total Estimated District Cost | \$ 6,440,000 |
|-------------------------------|--------------|

SOURCE OF FUNDS:

- 25120-947420-536200 Contribution to Other Agency – Zone 2

ATTACHMENT:

1. Vicinity Map
2. Funding Agreement

RSM:blm
P8/243141



Jason Farin, Principal Management Analyst 4/19/2022



Cynthia M. Guarez, Chief Deputy County Counsel 4/13/2022

FUNDING AGREEMENT
 Van Buren Sewer Improvement
 Project No. 2-6-10042

This Funding Agreement ("Agreement"), dated as of April 26, 2022, is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic, ("DISTRICT") and the County of Riverside, a political subdivision of the State of California, on behalf of its Office of Economic Development Department, ("COUNTY"). DISTRICT and COUNTY are individually referred to herein as "PARTY" and collectively referred to herein as "PARTIES". The PARTIES hereto hereby agree as follows:

RECITALS

A. WHEREAS, Van Buren Boulevard is a major transportation arterial between the 91 and 215 Freeways crossing the jurisdictions of both the County of Riverside ("COUNTY") and City of Riverside, a California charter city and municipal corporation ("CITY").

B. WHEREAS, the Van Buren Boulevard Sewer Improvements Project ("Project") is generally defined, as shown in Exhibit "A", as the construction of a gravity sewer main within Van Buren Boulevard, the construction of a lift station on the northeasterly corner of Krameria Avenue and Washington Street and the construction of a force main to carry effluent and join into CITY's gravity sewer system at Wood Road. The Project's general sewer service area is for frontage parcels along Van Buren Boulevard from Wood Road to King Avenue.

C. WHEREAS, CITY provides regional sewer collection, transmission and treatment services within areas of Riverside County, and whose boundaries include the city of Riverside and neighboring unincorporated communities of the County of Riverside.

D. WHEREAS, the Project facilities will consist of backbone infrastructure

designed to accommodate wastewater flows generated from, but not limited to, current and future commercial, industrial, residential and public facilities, and other sources.

E. WHEREAS, CITY will be awarding contracts in the approximate amount of Fourteen Million Dollars (\$14,000,000) for construction of the Project.

F. WHEREAS, COUNTY is proposing to assist CITY's Project pursuant to a separate agreement between COUNTY and CITY ("City Agreement").

G. WHEREAS, failing septic systems pose a threat to the water quality of water bodies in the region.

H. WHEREAS, on October 11, 2011, United States Environmental Protection Agency (USEPA) determined Goldenstar Creek to be an impaired waterbody in the region due to presence of indicator bacteria, specifically Escherichia coli (E. Coli), and listed Goldenstar Creek in the Clean Water Act Section 303(d) impaired waterbody list.

I. WHEREAS, this Project will provide water quality improvement by promoting the conversion of septic systems to sewer and thereby support improvements to water quality within Goldenstar Creek.

J. WHEREAS, DISTRICT desires to support the Project's water quality benefits to Goldenstar Creek and its tributaries and is, therefore, willing to fund COUNTY's portion of Project's financial contribution to accelerate construction of the Project, contingent upon the availability and DISTRICT's Board approval of funds.

K. WHEREAS, COUNTY is willing to reimburse DISTRICT for a portion of DISTRICT's contribution using Project sewer connection reimbursement fees from CITY.

L. WHEREAS, the purpose of this Agreement is to set forth the terms and conditions whereby DISTRICT will contribute Six Million Four Hundred Forty Thousand Dollars (\$6,440,000) to COUNTY ("TOTAL DISTRICT CONTRIBUTION") toward CITY's construction of the Project infrastructure. COUNTY shall pay all amounts in excess of TOTAL

DISTRICT CONTRIBUTION utilizing other funding mechanisms to support the Project, if needed.

M. WHEREAS, DISTRICT will have no other role.

N. WHEREAS, the purpose of this Agreement is to memorialize the mutual understandings by and between COUNTY and DISTRICT with respect to the payment of TOTAL DISTRICT CONTRIBUTION.

O. NOW, THEREFORE, in consideration of the preceding recitals and the mutual covenants hereinafter contained, 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

COUNTY shall:

1. Issue an initial invoice ("Initial Invoice") to DISTRICT (Attention: Special Projects Section) for the initial fifty percent (50%) of TOTAL DISTRICT CONTRIBUTION at the time CITY advertises the Project to solicit bids for the Project's construction. COUNTY shall include (i) the copy of the fully executed City Agreement and (ii) CITY's notice of Project advertisement with the first invoice.

2. Issue a final invoice ("Final Invoice") to DISTRICT (Attention: Special Projects Section) for the remaining TOTAL DISTRICT CONTRIBUTION at the time CITY issues the notice of completion for the Project. When issuing the Final Invoice, COUNTY shall include (i) the copy of the fully executed City Agreement, ~~(ii) CITY's Notice of Completion filed for Project~~ and (iii) copy of CITY's invoice detailing the amounts invoiced to COUNTY. In the event COUNTY's contribution will be lower than TOTAL DISTRICT CONTRIBUTION, the Final Invoice amount shall be reduced to the remaining balance expended by COUNTY toward the Project construction.

3. Within thirty (30) business days, reimburse DISTRICT any amounts that COUNTY may receive from CITY associated with Project sewer connection fees pursuant to City Agreement.

SECTION II

DISTRICT shall:

1. Within thirty (30) business days of receiving of COUNTY's invoice, pay one hundred percent (100%) of Initial Invoice, contingent upon the receipt of items listed in Section I.1.

2. Within thirty (30) business days of receiving of COUNTY's invoice, pay one hundred percent (100%) of Final Invoice, contingent upon the receipt of items listed in Section I.2. DISTRICT may elect to pay Final Invoice sooner at DISTRICT's discretion.

SECTION III

It is further mutually agreed:

1. Notwithstanding any other provision herein, this Agreement's TOTAL DISTRICT CONTRIBUTION shall not exceed a total sum of Six Million Four Hundred Forty Thousand Dollars (\$6,440,000.00) and shall be used by COUNTY solely for the purpose of supporting CITY 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 TOTAL DISTRICT CONTRIBUTION, COUNTY shall refund the difference to DISTRICT within thirty (30) business days of CITY's filing the Notice of Completion for Project.

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

4. COUNTY shall indemnify, defend, save and hold harmless DISTRICT (including their respective directors, officers, Board of Supervisors, 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 COUNTY's (including its officers, elected and appointed officials, employees, agents, representatives, independent contractors and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement or failure to comply with the requirements of this Agreement, including, but not limited to (a) property damage, (b) bodily injury or death, (c) payment of attorney fees or (d) any other element of any kind or nature whatsoever. This section shall survive any termination of this Agreement until the statute of limitations period has run for any claims that could be asserted under this Agreement.

5. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

6. This Agreement is to be construed in accordance with the laws of the State of California. Any action at law or in equity brought by any of PARTIES hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and PARTIES hereto waive all provisions of law providing for a change of venue in such proceedings to any other county. Neither COUNTY nor DISTRICT shall assign this Agreement without the written consent of the other PARTY.

7. This Agreement is made and entered into for the sole protection and benefit of PARTIES hereto. No other person or entity shall have any right of action based upon the provisions of this Agreement.

8. 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.

9. Any and all notices sent or required to be sent to 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: Special Projects Section | RIVERSIDE COUNTY OFFICE OF ECONOMIC DEVELOPMENT 3403 10 th Street, #400 Riverside, CA 92501 Attn: Director, RivCoED |
|---|--|

10. This Agreement is the result of negotiations between 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.

11. Any waiver by DISTRICT or COUNTY 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 COUNTY 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 COUNTY from enforcing this Agreement.

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

13. This Agreement is intended by 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 amended, changed or modified only upon the written consent of PARTIES hereto.

14. 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.

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

16. 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 Funding Agreement on

April 26, 2022
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

By 
JASON E. UHLEY
General Manager-Chief Engineer

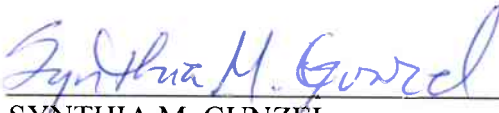
By 
KAREN SPIEGEL, Chair
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

COUNTY COUNSEL

KECIA HARPER
Clerk of the Board

By 
SYNTHIA M. GUNZEL
Chief Deputy County Counsel

By 
Deputy

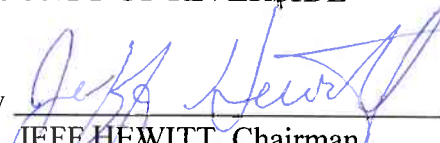
(SEAL)

[Signed in Counterpart]

Funding Agreement
Van Buren Sewer Improvement
04/05/22
RSM:blm

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By 
JEFF HEWITT, Chairman
Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

COUNTY COUNSEL

KECIA HARPER
Clerk of the Board

By 
DANIELLE MALAND
Deputy County Counsel

By 
Deputy

(SEAL)

[Signed in Counterpart]

Funding Agreement
Van Buren Sewer Improvement
04/05/22
RSM:blm

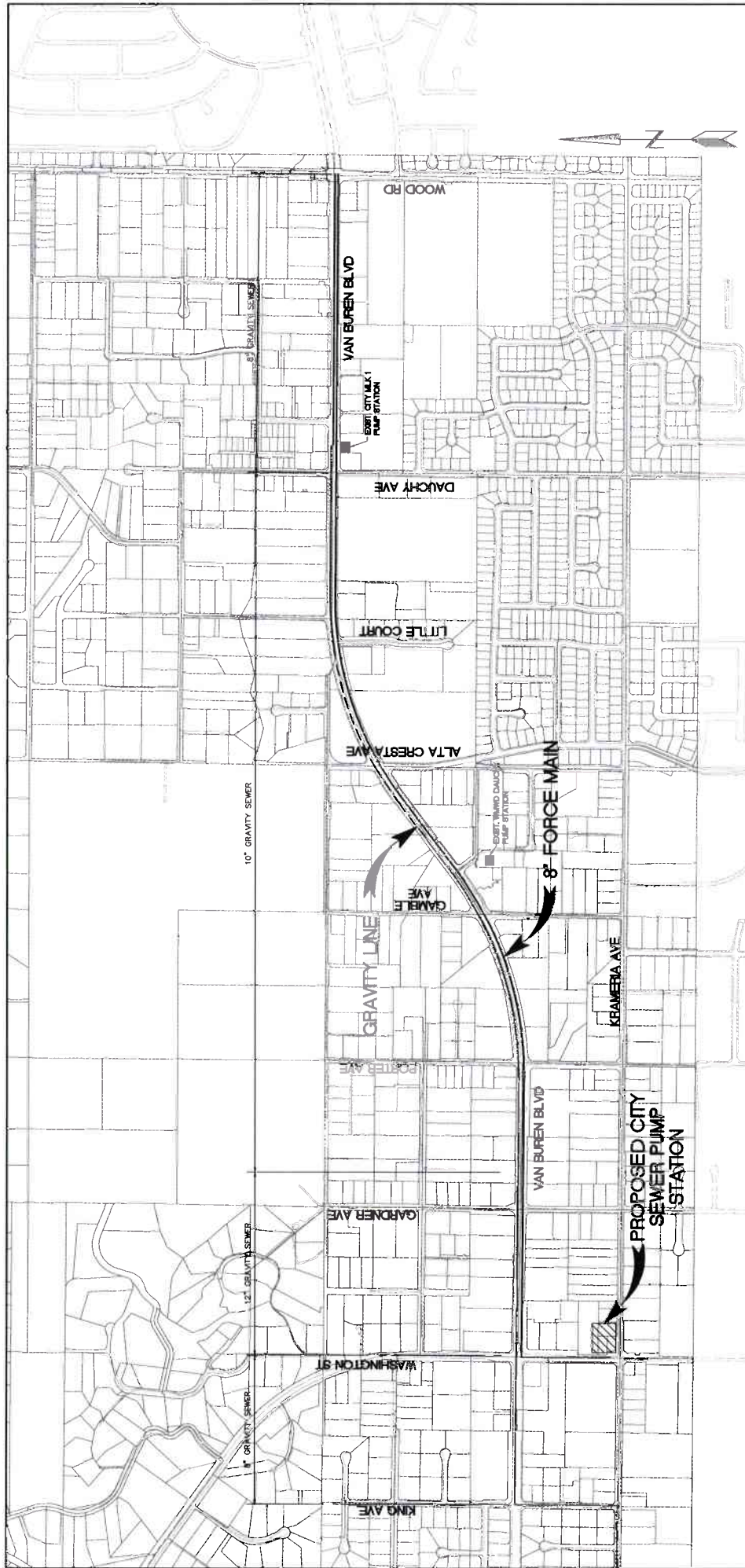


EXHIBIT "A"

VAN BUREN BOULEVARD SEWER PROJECT

SCALE: 1" = 30' DRAWING BY: TN DATE: 12/02/08 FILE: G:\Drawings\Construction\Design\Proposals\17-008 Van Buren Sewer Plan.dwg Design: P:\Drawings\Engineering\CADD\Sheet\M01.dwg