

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



ITEM: 11.2  
(ID # 21239)

**MEETING DATE:**  
Tuesday, February 28, 2023

**FROM :** FLOOD CONTROL DISTRICT:

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of the Funding Agreement Between the Riverside County Flood Control and Water Conservation District and the City of Eastvale for the Eastvale Alternate Drainage and Water Quality Master Plan, Project No. 2-6-10040, CEQA Exempt, District 2. [\$300,000 Not-to-Exceed Cost – District Zone 2 Funding 100%]

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

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

**ACTION:Policy**

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 2/14/2023

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**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Jeffries, Spiegel, Washington, and Gutierrez  
Nays: None  
Absent: Perez  
Date: February 28, 2023  
xc: Flood

Kimberly Rector  
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>	\$ 150,000	\$ 150,000	\$ 300,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> Zone 2 Funds 100% (See Additional Fiscal Information)			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 22/23-23/24	

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

**BACKGROUND:**

**Summary**

The Agreement sets forth the terms and conditions by which the District will contribute up to Three Hundred Thousand Dollars (\$300,000) in funding to support the City's effort toward the preparation and development of the Eastvale Alternate Drainage and Water Quality Master Plan ("Eastvale WQMP"). The City plans to conduct a feasibility study to develop an Eastvale WQMP that would determine the Best Management Practices located within the City's right of way of existing surface facilities, to include (i) detention and retention basins and (ii) infiltration and water quality improvement facilities, that can be retrofitted into underground drainage and treatment systems to ultimately free up the surface spaces for potential outdoor recreational areas for public use. The Eastvale WQMP would also identify ways to address the water quality issue of pollutants discharged into the Santa Ana River during the dry season.

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 CEQA Guidelines Section 15061(b)(3) (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. It can be seen with certainty that there is no possibility the Agreement will have a significant effect on the environment.

**Impact on Residents and Businesses**

The District's financial contribution toward the City's project is funded by ad valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to residents and businesses.

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The residents and businesses of the City are the primary beneficiaries of the project. Ancillary benefits will accrue to the public who will utilize the roadways.

**Additional Fiscal Information**

The District is contributing up to \$300,000 in funding for the City for Eastvale WQMP. Sufficient funding is available in the District's Zone 2 budget for FY 2022/23 and will be included in the proposed budget in future years as appropriate and necessary.

**Funding Summary:**

FY 22/23 - Estimated District Contribution	\$ 150,000
FY 23/24 - Estimated District Contribution	\$ 150,000
Maximum District Contribution to the City	\$ 300,000
Total Estimated District Cost	\$ 300,000


**SOURCE OF FUNDS: (Continued)**

1. 25120-947420-536200 Contribution to Non-County Agency – Zone 2

**ATTACHMENT:**

1. Vicinity Map
2. Funding Agreement

AMR:blm  
P8/249219

  
Jason Farin, Principal Management Analyst 2/21/2023

  
Ronak Patel, Deputy County Counsel 2/14/2023



FUNDING AGREEMENT

Eastvale Alternate Drainage and Water Quality Master Plan  
Project No. 2-6-10040

The Funding Agreement ("Agreement"), dated as of February 28<sup>th</sup>, 2023, is entered in by the Riverside County Flood Control and Water Conservation District, a body politic, ("DISTRICT") and the City of Eastvale, 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 plans to conduct a feasibility study to develop an Alternate Drainage and Water Quality Master Plan ("EASTVALE WQMP"). The EASTVALE WQMP would determine the Best Management Practices ("BMP") located within the CITY's rights of way, of existing surface facilities to include (i) detention and retention basins, and (ii) infiltration and water quality improvement facilities, that can be retrofitted into underground drainage and treatment systems to ultimately free up the surface spaces for potential outdoor recreational areas for public use. The EASTVALE WQMP would also identify ways to address the water quality issue of pollutants discharged into the Santa Ana River during the dry season; and

B. Due to mutual interest in the EASTVALE WQMP, CITY desires DISTRICT to contribute funding and DISTRICT has budgeted for and desires to support CITY's efforts by providing a funding, as set forth herein; and

C. DISTRICT's financial contribution towards the EASTVALE WQMP will pay for the costs associated with the preparation and development of the EASTVALE WQMP by CITY's selected consultant ("STUDY COSTS"). DISTRICT's financial contribution towards the STUDY COSTS shall not exceed Three Hundred Thousand Dollars (\$300,000), hereinafter called "TOTAL DISTRICT CONTRIBUTION"; and

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D. It is in the best interest of the public to proceed with preparation of EASTVALE WQMP at the earliest possible date; and

E. The purpose of this Agreement is to memorialize the mutual understandings by and between DISTRICT and CITY with respect to the assessment and recommendation of EASTVALE WQMP 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. Prepare or cause to be prepared the necessary documents and reports for the CITY's selected consultant to begin the preparation of the EASTVALE WQMP, in accordance with applicable CITY standards.

2. Keep an accurate accounting of all STUDY COSTS and provide this accounting to the DISTRICT along with invoices as provided herein. The final accounting of STUDY COSTS shall include a detailed breakdown of all costs to CITY, including but not limited to payment vouchers to the CITY's selected consultant, to establish the actual cost of assessment for the CITY.

3. Upon execution of this Agreement and issuance of Notice to Proceed to CITY's selected consultant, issue the first invoice to DISTRICT (Attention: Special Projects Section) for fifty percent (50%) of STUDY COSTS, as set forth in Section I.2.

4. Upon the completion of EASTVALE WQMP, issue the final invoice to DISTRICT (Attention: Special Projects Section) for the remaining fifty percent (50%) of STUDY COSTS, as set forth in Section I.2, and provide the DISTRICT with a copy of CITY's adopted

EASTVALE WQMP, payment amount by the DISTRICT of the final invoice is subject to the not to exceed TOTAL DISTRICT CONTRIBUTION amount described in Recital C.

5. Be responsible to pay any amount in excess of the TOTAL DISTRICT CONTRIBUTION for the STUDY COSTS.

## SECTION II

DISTRICT shall:

1. Within thirty (30) calendar days of receipt of CITY's first invoice, pay fifty percent (50%) of STUDY COSTS, as set forth in Section I.3.

2. Within thirty (30) calendar days of receipt of CITY's final invoice, pay the remaining fifty percent (50%) of STUDY COSTS, as set forth in Section I.4, subject to and the not to exceed TOTAL DISTRICT CONTRIBUTION amount described in Recital C.

3. Not be responsible to pay any amount in excess of TOTAL DISTRICT CONTRIBUTION.

## SECTION III

It is further mutually agreed:

1. Notwithstanding any other provision herein for this Agreement, TOTAL DISTRICT CONTRIBUTION shall not exceed a total sum of Three Hundred Thousand Dollars (\$300,000); and shall be used by CITY solely for the preparation of EASTVALE WQMP. No additional funding whatsoever shall be provided by DISTRICT for any subsequent EASTVALE WQMP modifications or scope extensions. In the event the actual cost for EASTVALE WQMP is less than the TOTAL DISTRICT CONTRIBUTION, CITY shall refund the difference to DISTRICT within thirty (30) calendar days of completion of CITY's EASTVALE WQMP.

2. The obligations of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for DISTRICT's financial contribution towards EASTVALE WQMP 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. If CITY has executed any third-party contracts for STUDY COSTS prior to DISTRICT terminating the Agreement pursuant to this provision, DISTRICT shall compensate CITY for any actual documented costs incurred for work performed by CITY's selected consultant(s) prior to DISTRICT terminating the Agreement.

3. Under the provisions of this Agreement, DISTRICT shall bear no responsibility whatsoever for the EASTVALE WQMP.

4. CITY shall indemnify, defend, and hold harmless and require its consultant(s) to indemnify, defend, and hold harmless the DISTRICT and the County of Riverside (their Agencies, Districts, Special Districts And Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, 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 consultant(s) (including their officers, employees, subcontractors, agents or representatives ("Indemnitors") 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 Indemnitors from this Agreement. CITY or CITY's consultant(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.

5. With respect to any action or claim subject to indemnification herein by CITY or CITY's consultant(s), CITY or CITY's consultant(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. Any such adjustment, settlement or compromise shall not in any manner

whatsoever limit or circumscribe CITY or CITY's consultant(s) indemnification to Indemnitees as set forth herein.

6. CITY or CITY's consultant(s) obligation hereunder shall be satisfied when CITY or CITY's consultant(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.

7. 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 or CITY's consultant(s) from indemnifying the Indemnitees to the fullest extent allowed by law.

8. 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 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.

9. 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.

10. Time is of the essence in pursuing 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 pursue the work in a timely manner, upon providing CITY thirty (30) calendar days written notice stating the extent and effective date of termination.



11. 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 force or effect.

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

13. 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 EASTVALE  
12363 Limonite Avenue, Suite 910  
Eastvale, CA 91752  
Attn: Jimmy Chung

14. 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.

15. 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.

16. 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.

17. 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 Agreement on

February 28th, 2023.

(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:

MINH TRAN  
County Counsel

KIMBERLY RECTOR  
Clerk of the Board

By   
KRISTINE BELL-VALDEZ  
Supervising Deputy County Counsel

By   
Deputy

(SEAL)

Funding Agreement: City of Eastvale  
Eastvale Alternate Drainage and Water Quality Master Plan  
Project No. 2-6-10040  
01/11/2023  
AK/AMR:jss

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RECOMMENDED FOR APPROVAL:

CITY OF EASTVALE

By Mark Orme  
MARK ORME  
City Manager

By Todd Rigby  
TODD RIGBY  
Mayor

(SEAL)

APPROVED AS TO FORM:

ATTEST:

By Erica Vega  
ERICA VEGA  
City Attorney

By Marc A. Donohue  
MARC A. DONOHUE  
City Clerk

(SEAL)

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