

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: TLMA – Transportation Department

306 B

SUBMITTAL DATE:
August 20, 2014

SUBJECT: Approval of Cooperative Agreement between the County of Riverside and the County of Riverside Flood Control and Water Conservation District, for Temescal Creek–Foster Road Storm Drain, Stage 1 Project No. 4-0-00493. District 1/District 1,2

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the County of Riverside and the County of Riverside Flood Control and Water Conservation District; and
2. Authorize the Chairman of the Board to execute the Cooperative Agreement documents on behalf of the County of Riverside.

BACKGROUND:

Summary

The County of Riverside Flood Control and Water Conservation District (District) is proposing to design and construct an underground flood control facility within Foster Road, between Temescal Canyon Road and Temescal Creek in the unincorporated County area.

Patricia Romo

Patricia Romo
Assistant Director of Transportation
for Juan C. Perez
Director of Transportation and Land Management

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (Per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent ☐ Policy ☒
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: 100% Riverside County Flood Control and Water Conservation District. There are no General Funds used in the project

Budget Adjustment: No
For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

APPROVE

BY:

Tina Grande
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- ☐ Positions Added
☐ Change Order
☐ A-30
☐ 4/5 Vote

Prev. Agn. Ref.:

District: 1/1,2

Agenda Number:

3-108

FORM APPROVED COUNTY COUNSEL 8/21/14
BY: GREGORY P. PRIAMOS DATE

BACKGROUND:

Summary (continued)

The County of Riverside (County) is granting the District the necessary rights to construct, operate and maintain a portion of the project that is located within County road rights-of-way.

Upon completion of project construction, the District will assume ownership and responsibility for operation and maintenance of the mainline storm drain and a basin. The County will, upon construction completion, assume ownership and responsibility for operation and maintenance of the project's associated catch basins, inlets and connector pipes that are 36-inches or less in diameter located within County road rights-of-way.

The District is funding all design, construction, and construction inspection costs for the project.

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

Impact on Residents and Businesses

Upon construction completion, this project will: (i) provide drainage improvements for adjacent property owners and businesses, and (ii) reduce traffic hazards caused by flooding along Foster road. This project is funded by ad-valorem property tax revenue and entails no new fees, taxes, nor bonded indebtedness.

SUPPLEMENTAL:

Additional Fiscal Information

Future operations and maintenance costs associated with said mainline storm drain that is greater than 36-inches in diameter will accrue to the District.

Future operations and maintenance costs associated with drainage pipes and appurtenances less than 36-inches will accrue to the County.

COOPERATIVE AGREEMENT

Temescal Creek-Foster Road Storm Drain, Stage 1
Project No. 2-0-00493

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", and the County of Riverside, hereinafter called "COUNTY" on behalf of its Transportation Department, hereby agree as follows:

RECITALS

A. DISTRICT has budgeted for and plans to design and construct the Temescal Creek-Foster Road Storm Drain, Stage 1 project. Upon construction completion, Temescal Creek-Foster Road Storm Drain, Stage 1 project will provide necessary drainage improvements in the unincorporated area of Riverside County; and

B. Temescal Creek-Foster Road Storm Drain, Stage 1 consists of the construction of: (i) approximately 1,500 lineal feet of underground reinforced concrete pipe located mostly within Foster Road from approximately Temescal Creek to approximately Temescal Canyon Road, hereinafter called "STORM DRAIN", as shown in concept in green on Exhibit "A" attached hereto and made a part hereof; and (ii) a basin as shown in concept in red on Exhibit "A", hereinafter called "BASIN"; and

C. Associated with the construction of STORM DRAIN is the construction of certain catch basins, inlets, and connector pipes that are thirty-six inches (36") or less in diameter located within COUNTY rights of way, hereinafter called "APPURTENANCES". Together, STORM DRAIN, BASIN, and APPURTENANCES are hereinafter called "PROJECT"; and

D. At the upstream terminus, STORM DRAIN will be connected to an existing privately owned fifty-four inches (54") corrugated steel pipe. At the downstream terminus, STORM DRAIN will be discharged into the BASIN; and

1 E. DISTRICT desires COUNTY to accept ownership and responsibility for the
2 operation and maintenance of APPURTENANCES upon completion of PROJECT construction.
3 Therefore, COUNTY must review and approve DISTRICT'S plans and specifications for
4 PROJECT and subsequently inspect the construction of PROJECT; and
5

6 F. DISTRICT and COUNTY acknowledge that it is in the best interest of the
7 public to proceed with the construction of PROJECT at the earliest possible date; and
8

9 G. The purpose of this Agreement is to memorialize the mutual understandings
10 by and between DISTRICT and COUNTY in regards to its respective roles and responsibilities
11 associated with PROJECT.

12 NOW, THEREFORE, the parties hereto mutually agree as follows:

13 SECTION I

14 DISTRICT shall:

15 1. Pursuant to the California Environmental Quality Act (CEQA), act as the
16 Lead Agency and assume responsibility for the preparation, circulation, and adoption of all
17 necessary and appropriate CEQA documents pertaining to the construction, operation and
18 maintenance of PROJECT.
19

20 2. Prepare, or cause to be prepared, plans and specifications for PROJECT,
21 hereinafter called "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and
22 COUNTY standards.

23 3. Obtain, at its sole cost and expense, all necessary rights of way, rights of
24 entry and temporary construction easements necessary to construct, inspect, operate and maintain
25 PROJECT.
26
27
28

1 4. Secure, at its sole cost and expense, all necessary permits, approvals,
2 licenses or agreements required by any federal, state or local resource or regulatory agencies
3 pertaining to the construction, operation and maintenance of PROJECT.
4

5 5. Furnish COUNTY with copies of all permits, approvals or agreements as
6 may be required by any federal, state or local resource and/or regulatory agency for the
7 construction, operation and maintenance of PROJECT. Such documents, hereinafter called
8 "REGULATORY PERMITS", include but are not limited to those permits and approvals issued
9 by the U.S. Army Corps of Engineers, California Regional Water Quality Control Board
10 (CRWQCB), California Department of Fish and Wildlife, State Water Resources Control Board,
11 and Western Riverside County Regional Conservation Authority.
12

13 6. Prior to advertising PROJECT for public works construction contract bids,
14 submit IMPROVEMENT PLANS to COUNTY for its review and approval, as appropriate.
15

16 7. Advertise, award and administer a public works construction contract for
17 PROJECT at its sole cost and expense.
18

19 8. Provide COUNTY with written notice that DISTRICT has awarded a
20 construction contract for PROJECT.
21

22 9. Notify COUNTY in writing at least twenty (20) days prior to the start of
23 construction of PROJECT.
24

25 10. Furnish COUNTY, at the time of providing written notice to COUNTY of
26 the start of construction as set forth in Section I.8, with a construction schedule which shall show
27 the order and dates in which DISTRICT or DISTRICT'S contractor proposes to carry out on the
28 various parts of work, including estimated start and completion dates.

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

4 12. Inspect, or cause to be inspected, construction of PROJECT.

5 13. Require its construction contractor(s) to comply with all Cal/OSHA safety
6 regulations including regulations concerning confined space and maintain a safe working
7 environment for all DISTRICT and COUNTY employees on the site.

8 14. Require its construction contractor(s) to include COUNTY as an additional
9 insured under the liability insurance coverage for PROJECT, and also require its construction
10 contractor(s) to include COUNTY as a third party beneficiary of any and all warranties of the
11 contractor's work with regard to the APPURTENANCES.

12 15. Accept ownership and sole responsibility for the operation and maintenance
13 of PROJECT until such time as COUNTY accepts ownership and responsibility for operation
14 and maintenance of APPURTENANCES.

15 16. Within two (2) weeks of completing PROJECT construction, provide
16 COUNTY with written notice that PROJECT construction is substantially complete and
17 requesting that COUNTY conduct a final inspection of PROJECT.

18 17. Upon completion of PROJECT construction, provide COUNTY with a copy
19 of the Notice of Completion.

20 18. Upon COUNTY acceptance of APPURTENANCES for ownership,
21 operation and maintenance, provide COUNTY with a reproducible duplicate set of "record
22 drawings" of PROJECT plans.

23 19. Ensure that all work performed pursuant to this Agreement by DISTRICT,
24 its agents or contractors is done in accordance with all applicable laws and regulations, including
25

1 but not limited to all applicable provisions of the Labor Code, Business and Professions Code,
2 and Water Code. DISTRICT shall be solely responsible for all costs associated with compliance
3 with applicable laws and regulations.
4

5 SECTION II

6 COUNTY shall:

7 1. Review and approve IMPROVEMENT PLANS prior to DISTRICT
8 advertising PROJECT for construction.

9 2. Grant DISTRICT, by execution of this Agreement, all rights necessary to
10 construct, inspect, operate and maintain PROJECT within COUNTY rights of way.
11

12 3. Order the relocation of all utilities installed by permit or franchise within
13 COUNTY rights of way which conflict with the construction of PROJECT and which must be
14 relocated at the utility company's expense.

15 4. Issue, at no cost to DISTRICT or DISTRICT'S contractor(s), the necessary
16 encroachment permit to construct PROJECT.

17 5. Inspect PROJECT construction for quality control purposes at its sole cost,
18 but provide any comments to DISTRICT personnel who shall be solely responsible for all quality
19 control communications with DISTRICT'S contractor(s) during the construction of PROJECT.
20

21 6. Upon receipt of DISTRICT'S written notice that PROJECT construction is
22 substantially complete as set forth in Section I.16, conduct a final inspection of PROJECT.

23 7. Accept ownership and sole responsibility for the operation and maintenance
24 of APPURTENANCES upon: (i) receipt of DISTRICT'S Notice of Completion as set forth in
25 Section I.17; and (ii) receipt of a reproducible duplicate set of 'record drawings' of PROJECT
26 plans as set forth in Section I.18.
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8. Upon COUNTY acceptance of APPURTENANCES construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within COUNTY rights of way which must be performed at such time(s) that the finished grade along and above the underground portions of PROJECT are improved, repaired, replaced or changed. It being further understood and agreed that any such adjustments shall be performed at no cost to DISTRICT.

SECTION III

It is further mutually agreed:

1. Except as otherwise provided herein, all construction work involved with PROJECT shall be inspected by DISTRICT but shall not be deemed complete until DISTRICT and COUNTY mutually agree that construction is completed in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.

2. Except as otherwise provided herein, DISTRICT shall not be responsible for any additional street repairs or improvements not shown in IMPROVEMENT PLANS and not as a result of PROJECT construction.

3. DISTRICT shall indemnify, defend, save and hold harmless COUNTY (including its officers, districts, special districts and departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) from any liabilities, claim, damage, proceeding or action, present or future, based upon, arising out of or in any way relating to DISTRICT'S (including its officers, Board of Supervisors, elected and appointed officials, employees, agents, representatives, independent contractors, and subcontractors) actual or alleged acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including but not limited to: (a)

1 property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other
2 element of any kind or nature whatsoever.

3
4 4. COUNTY shall indemnify, defend, save and hold harmless DISTRICT
5 (including its officers, Board of Supervisors, elected and appointed officials, employees, agents,
6 representatives, independent contractors, and subcontractors) from any liabilities, claim, damage,
7 proceeding or action, present or future, based upon, arising out of or in any way relating to
8 COUNTY'S (including its officers, Board of Supervisors, elected and appointed officials,
9 employees, agents, representatives, independent contractors, and subcontractors) actual or
10 alleged acts or omissions related to this Agreement, performance under this Agreement, or
11 failure to comply with the requirements of this Agreement, including but not limited to: (a)
12 property damage; (b) bodily injury or death; (c) payment of attorney's fees; or (d) any other
13 element of any kind or nature whatsoever.
14

15 5. Any waiver by DISTRICT or by COUNTY of any breach of any one or
16 more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or
17 other breach of the same or of any other term hereof. Failure on the part of DISTRICT or
18 COUNTY to require exact, full and complete compliance with any terms of this Agreement shall
19 not be construed as in any manner changing the terms hereof, or estopping DISTRICT or
20 COUNTY from enforcement hereof.
21

22 6. This Agreement is to be construed in accordance with the laws of the State
23 of California.

24 7. Any and all notices sent or required to be sent to the parties to this
25 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:
26
27
28

1 RIVERSIDE COUNTY FLOOD CONTROL
2 AND WATER CONSERVATION DISTRICT
3 1995 Market Street
4 Riverside, CA 92501
5 Attn: Design II Section

COUNTY OF RIVERSIDE
4080 Lemon Street, 2nd Floor
Riverside, CA 92502-1090
Attn: Transportation Department
Plan Check Section
Alan French

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

9 9. This Agreement is the result of negotiations between the parties hereto, and
10 the advice and assistance of their respective counsel. The fact that this Agreement was prepared
11 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty
12 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT
13 prepared this Agreement in its final form.

14 10. This Agreement is made and entered into for the sole protection and benefit
15 of the parties hereto. No other person or entity shall have any right or action based upon the
16 provisions of this Agreement.
17

18 11. This Agreement is intended by the parties hereto as a final expression of
19 their understanding with respect to the subject matter hereof and as a complete and exclusive
20 statement of the terms and conditions thereof and supersedes any and all prior and
21 contemporaneous agreements and understandings, oral and written, in connection therewith.
22 This Agreement may be changed or modified only upon the written consent of the parties hereto.
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