

COOPERATIVE FUNDING AGREEMENT

Riverside Northside Specific Plan Master Drainage Plan
Project No. 1-6-10001

The Cooperative 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 Riverside, a California charter city and 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. The Northside is one of CITY's earliest settled communities, located north of CITY's downtown and the 60 Freeway. DISTRICT has budgeted for and plans to support CITY's efforts toward the development of CITY's Northside Specific Plan's Master Drainage Plan Report ("MASTER DRAINAGE PLAN"). MASTER DRAINAGE PLAN will reduce Federal Emergency Management Agency ("FEMA") floodplains and protect neighboring residents and businesses from street flooding in CITY's Northside area; and

B. CITY desires that DISTRICT contribute funding for the preparation of MASTER DRAINAGE PLAN; and

C. DISTRICT wishes to support CITY's efforts by providing a financial contribution towards the preparation of the MASTER DRAINAGE PLAN; and

D. DISTRICT's financial contribution towards preparation of MASTER DRAINAGE PLAN will pay for CITY's engineering costs as follows:

- (i) CITY's selected consultant's proposal costs associated with assessment and study, hydrology and hydraulics development and reports, backbone storm drain recommendations, and schematic plan ("PROJECT COSTS"); and

- (ii) CITY's selected consultant's proposal costs associated with CEQA determination, development impact fund determination, and interim condition of Highgrove Channel overflow ("OPTIONAL TASKS"); and
- (iii) CITY's selected consultant's proposal costs associated with Additional Directed Work during the development of MASTER DRAINAGE PLAN ("CONTINGENCY ITEMS").

E. CITY may request DISTRICT make a financial contribution towards OPTIONAL TASKS and CONTINGENCY ITEMS and, in making such a request, CITY must justify to DISTRICT in writing the need for this financial contribution. DISTRICT will only contribute towards OPTIONAL TASKS and CONTINGENCY ITEMS if DISTRICT finds the justification provided by CITY acceptable and provided that the total financial contribution from the DISTRICT for the MASTER DRAINAGE PLAN does not exceed the amounts described in Recital F.

F. Together, PROJECT COSTS, OPTIONAL TASKS, and CONTINGENCY ITEMS are hereinafter called "TOTAL DISTRICT CONTRIBUTION". TOTAL DISTRICT CONTRIBUTION for the MASTER DRAINAGE PLAN shall not exceed a total of One Hundred Eighty Thousand Dollars (\$180,000.00), as follows: PROJECT COSTS shall not exceed One Hundred Twenty Thousand Dollars (\$120,000.00), OPTIONAL TASKS shall not exceed Forty Thousand Dollars (\$40,000.00), and CONTINGENCY ITEMS shall not exceed Twenty Thousand Dollars (\$20,000.00); and

G. DISTRICT wishes to provide financial assistance to CITY and review and approve MASTER DRAINAGE PLAN in accordance with applicable DISTRICT's standards; and

H. It is in the best interest of the public to proceed with preparation of MASTER DRAINAGE PLAN at the earliest possible date; and

I. The purpose of this Agreement is to memorialize the mutual understandings by and between CITY and DISTRICT with respect to the assessment and design of MASTER DRAINAGE PLAN; the payment of PROJECT COSTS, OPTIONAL TASKS, and CONTINGENCY ITEMS; and 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 preparation of the MASTER DRAINAGE PLAN.

2. Prepare or cause to be prepared the necessary documents and reports for the MASTER DRAINAGE PLAN, in accordance with the applicable DISTRICT and CITY standards, and submit to DISTRICT (Attention: Project Planning Section) for its review, comment, and approval prior to adopting the MASTER DRAINAGE PLAN.

3. If applicable, obtain, at its sole cost and expense, all necessary permits, approvals or agreements as may be required by any federal, state and local resource or regulatory agencies pertaining to MASTER DRAINAGE PLAN. 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 with an opportunity to review, comment on and approve, as appropriate, all applications for REGULATORY PERMITS prior to submitting the applications to the applicable regulatory agencies.

4. Procure or cause to be procured insurance coverages during the term of this Agreement. CITY shall require any consultant(s) for the preparation of MASTER DRAINAGE PLAN 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 consultant(s) to begin of the preparation of MASTER DRAINAGE PLAN, 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.

5. Keep an accurate accounting of all PROJECT COSTS as set forth in Recital D.i., and provide this accounting to DISTRICT with CITY's copy of the initial submittal of the MASTER DRAINAGE PLAN. Each monthly invoice accounting of PROJECT COSTS, shall include a detailed breakdown of all costs, including but not limited to payment vouchers to the CITY's selected consultant, to establish the actual cost of assessment for CITY for preparation of MASTER DRAINAGE PLAN.

6. Issue monthly invoices to DISTRICT (Attention: Project Planning Section) for the PROJECT COSTS beginning with the initial submittal of MASTER DRAINAGE PLAN for DISTRICT's review and approval, as set forth in Recital D.i. and Section I.2., subject to and

provided that PROJECT COSTS shall not exceed One Hundred Twenty Thousand Dollars (\$120,000.00) for MASTER DRAINAGE PLAN.

7. If desired, request DISTRICT make a financial contribution towards OPTIONAL TASKS and/or CONTINGENCY ITEMS and, in making such a request, CITY must justify to DISTRICT in writing the need for this financial contribution, as set forth in Recital E.

8. Only upon receiving prior approval by DISTRICT for payment of OPTIONAL TASKS, keep an accurate accounting of all OPTIONAL TASKS as set forth in Recital D.ii, and provide this accounting to DISTRICT (Attention: Project Planning Section) with submittal of each monthly invoice. The accounting of OPTIONAL TASKS shall include a detailed breakdown of all costs, including but not limited to payment vouchers to CITY's selected consultant, to establish the actual cost of assessment for CITY for preparation of MASTER DRAINAGE PLAN.

9. Only upon receiving prior approval by DISTRICT for payment of OPTIONAL TASKS, issue monthly invoices to DISTRICT (Attention: Project Planning Section) for OPTIONAL TASKS beginning with the first submittal of OPTIONAL TASKS, and include an accurate accounting of these costs, as set forth in Recital D.ii and Section I.8, subject to and provided that OPTIONAL TASKS shall not exceed Forty Thousand Dollars (\$40,000.00).

10. Only upon receiving prior approval by DISTRICT for payment CONTINGENCY ITEMS, keep an accurate accounting of all CONTINGENCY ITEMS as set forth in Recital D.iii, and provide this accounting to DISTRICT (Attention: Project Planning Section) with submittal of each monthly invoice. The accounting of monthly invoices for CONTINGENCY ITEMS shall include a detailed breakdown of all costs, including but not limited to payment vouchers to CITY's selected consultant, to establish the actual cost of assessment for CITY for preparation of the MASTER DRAINAGE PLAN.

11. Only upon receiving prior approval by DISTRICT for payment of CONTINGENCY ITEMS, issue monthly invoices to the DISTRICT (Attention: Project Planning Section) for CONTINGENCY ITEMS beginning with the first submittal of CONTINGENCY ITEMS, and include an accurate accounting of these costs, as set forth in Recital D.iii and Section I.10, subject to and provided that CONTINGENCY ITEMS shall not exceed Twenty Thousand Dollars (\$20,000.00).

12. Upon completion of MASTER DRAINAGE PLAN, provide DISTRICT with a copy of CITY's adopted MASTER DRAINAGE PLAN.

13. CITY shall be responsible to pay any amounts for preparation of the MASTER DRAINAGE PLAN in excess of PROJECT COSTS, OPTIONAL TASKS, CONTINGENCY ITEMS, or 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.
2. Review, comment on, and approve MASTER DRAINAGE PLAN in accordance with the applicable DISTRICT and CITY standards prior to CITY adopting the MASTER DRAINAGE PLAN.
3. Not contribute any funding to CITY obtaining any REGULATORY PERMITS.
4. CITY may request DISTRICT make a financial contribution towards OPTIONAL TASKS and CONTINGENCY ITEMS and, in making such a request, CITY must justify to DISTRICT in writing the need for this financial contribution, as detailed in Section I.7. DISTRICT may make a financial contribution to CITY for OPTIONAL TASKS and CONTINGENCY ITEMS if DISTRICT finds the justification for this financial contribution

provided by CITY acceptable and provided that the total financial contribution from DISTRICT for MASTER DRAINAGE PLAN does not exceed the amounts described in Recital F.

5. Pay CITY, within thirty (30) business days after receipt of CITY's monthly invoice of PROJECT COSTS, as set forth in Sections I.6, subject to and provided that PROJECT COSTS shall not exceed One Hundred Twenty Thousand Dollars (\$120,000.00) for preparation of MASTER DRAINAGE PLAN.

6. Only upon prior approval by DISTRICT, pay CITY within thirty (30) business days after receipt of CITY's monthly invoice of OPTIONAL TASKS, as set forth in Section I.9, subject to and provided that OPTIONAL TASKS shall not exceed a total sum of Forty Thousand Dollars (\$40,000.00) for MASTER DRAINAGE PLAN.

7. Only upon prior approval by DISTRICT, pay CITY within thirty (30) business days after receipt of CITY's invoice for CONTINGENCY ITEMS, as set forth in Section I.11, subject to and provided that CONTINGENCY ITEMS shall not exceed a total sum of Twenty Thousand Dollars (\$20,000.00) for MASTER DRAINAGE PLAN.

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 One Hundred Eighty Thousand Dollars (\$180,000.00) for preparation of MASTER DRAINAGE PLAN and shall be used by CITY solely for the purpose of preparation of said MASTER DRAINAGE PLAN. Additionally, PROJECT COSTS shall not exceed One Hundred Twenty Thousand Dollars (\$120,000.00), OPTIONAL TASKS shall not exceed Forty Thousand Dollars (\$40,000.00), and CONTINGENCY ITEMS shall not exceed Twenty Thousand Dollars (\$20,000.00). CITY shall be responsible to pay any amounts in excess of TOTAL DISTRICT CONTRIBUTION, PROJECT COSTS, OPTIONAL TASKS, and CONTINGENCY ITEMS for preparation of

MASTER DRAINAGE PLAN. Further, no additional funding whatsoever shall be provided by DISTRICT for any subsequent MASTER DRAINAGE PLAN modifications or scope extensions.

2. In the event the actual cost for MASTER DRAINAGE PLAN is less than TOTAL DISTRICT CONTRIBUTION, CITY shall refund the difference to DISTRICT within thirty (30) days of filing the Notice of Completion for MASTER DRAINAGE PLAN.

3. Under the provisions of this Agreement, DISTRICT shall bear no responsibility whatsoever for MASTER DRAINAGE PLAN.

4. CITY shall indemnify, defend, save and hold harmless, and require its consultant(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 consultant(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 consultant(s), its officers, employees, subcontractors, agents or representatives ("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 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 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. The specified insurance limits required in this Agreement shall in no way limit or circumscribe CITY or CITY's consultant(s) obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

8. 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.

9. 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.

10. 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.

11. Time is of the essence in prosecuting 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 prosecute the work in a timely

manner, upon providing CITY thirty (30) days written notice stating the extent and effective date of termination.

12. 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.

13. 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.

14. 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 RIVERSIDE
3900 Main Street, 4th Floor
Riverside, CA 92522
Attn: Sweta Patel

15. 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.

16. 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 of this Agreement. 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.

17. The obligations of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for DISTRICT's financial contribution towards MASTER DRAINAGE PLAN 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.

18. 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.

19. 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

(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:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER
Clerk of the Board

By _____
SARAH K. MOORE
Deputy County Counsel

By _____
Deputy

(SEAL)

Cooperative Funding Agreement: City of Riverside
Riverside Northside Specific Plan Master Drainage Plan
06/01/21
AK:blm

RECOMMENDED FOR APPROVAL:

CITY OF RIVERSIDE

By _____
AL ZELINKA
City Manager

APPROVED AS TO FORM:

ATTEST:

By  _____
RUTHANN M. SALERA
Deputy City Attorney

By _____
DONESIA GAUSE
City Clerk

(SEAL)

Cooperative Funding Agreement: City of Riverside
Riverside Northside Specific Plan Master Drainage Plan
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AK:blm