

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

733B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

May 18, 2010

SUBJECT: Day Creek MDP Line F, Stage 3
Project No. 1-0-00247-03
Cooperative Agreement

RECOMMENDED MOTION:

Approve the Cooperative Agreement between the District, the County of Riverside, and Costco Wholesale Corporation (Developer) and authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The Agreement sets forth the terms and conditions by which a portion of the District's Day Creek MDP Line F, Stage 2 will be relocated by the Developer and inspected, operated and maintained by the District. The relocation is necessary to accommodate Developer's planned building expansion, Plot Plan 14420

Continued on Page 2

KEC:blj

WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net District Cost:	N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A

Positions To Be Deleted Per A-30 ☐

Requires 4/5 Vote ☐

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

BY:

Alex Gann
Alex Gann

Policy

☐

Consent

☐

Dep't Recomm.:

Policy

☐

Consent

☐

Per Exec. Ofc.:

Prev. Agn. Ref.:

District: 2nd

Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

11.1

FORM APPROVED COUNTY COUNSEL
BY: NEAL R. KIPNIS DATE: 5/20/10

Departmental Concurrence

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

SUBJECT: Day Creek MDP Line F, Stage 3
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SUBMITTAL DATE: May 18, 2010
Page 2

BACKGROUND (continued):

of which Phase 2 was constructed, was approved by the Board in May of 1997 and accepted by the District in October of 1999. A segment of Phase 2 will be excavated and relocated (Phase 3) under the terms of this Agreement.

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the referenced facility. Upon completion of the facility relocation and construction, the District will assume ownership, operation and maintenance of the mainline storm drain.

County Counsel has approved the Agreement as to legal form and the Developer has executed the Agreement. This matter is also on the County's Board Agenda for approval this same date.

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs will accrue to the District.

KEC:blj

COOPERATIVE AGREEMENT
Day Creek MDP Line F, Stage 3
(Project No. 1-0-00247-03)

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT, hereinafter called "DISTRICT", the COUNTY OF RIVERSIDE,
hereinafter called "COUNTY", and the COSTCO WHOLESALE CORPORATION, a
Washington corporation, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DISTRICT owns, operates and maintains the Day Creek MDP Line F
facility (Drawing No. 1-575), an underground storm drain hereinafter called "STORM DRAIN";
and

B. Located in northwestern Riverside County, STORM DRAIN is an essential
and integral part of DISTRICT'S flood and stormwater management infrastructure and provides
critical flood protection for nearby homes and businesses; and

C. In conjunction with the original construction of STORM DRAIN,
DISTRICT acquired certain rights of way, hereinafter called "DISTRICT EASEMENTS", as
recorded in the Official Records of Riverside County on document No. 2004-0825295; and

E. In conjunction with the planned expansion of its warehousing facilities,
DEVELOPER proposes to (i) abandon a section of STORM DRAIN as shown in concept in
green on Exhibit "A" and (ii) construct a new reach of STORM DRAIN, as shown in red on
Exhibit "A" in order to restore drainage function. The above listed items of construction are
hereinafter altogether called "PROJECT"; and

F. DEVELOPER and COUNTY desire DISTRICT to accept ownership and
responsibility for the operation and maintenance of PROJECT. Therefore, DISTRICT must

1 review and approve DEVELOPER'S plans and specifications and subsequently inspect the
2 construction of PROJECT; and

3 G. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and
4 specifications for PROJECT, (ii) inspect the construction of PROJECT, and (iii) accept
5 ownership and responsibility for the operation and maintenance of PROJECT as set forth herein,
6 provided DEVELOPER (i) complies with this Agreement, (ii) pays DISTRICT the amounts
7 specified herein to cover DISTRICT'S plan review and construction inspection costs for
8 PROJECT, (iii) constructs PROJECT in accordance with plans and specifications approved by
9 DISTRICT, (iv) obtains all necessary permits, regulatory permits, licenses and rights of entry as
10 set forth herein, and (v) accepts ownership and sole responsibility for the operation and
11 maintenance of PROJECT following completion of PROJECT construction until such time as
12 DISTRICT accepts ownership and responsibility for the operation and maintenance of
13 PROJECT; and
14
15

16 H. DISTRICT shall, upon acceptance of PROJECT, vacate a portion of the
17 existing DISTRICT EASEMENTS as shown in concept cross-hatched in green on Exhibit "B"
18 attached hereto and made a part hereof; and

19 I. COUNTY is willing to accept and hold faithful performance and payment
20 bonds submitted by DEVELOPER for PROJECT provided PROJECT is constructed in
21 accordance with plans and specifications approved by DISTRICT; and
22

23 J. This Agreement has been entered into at the request of DEVELOPER.
24 DISTRICT is willing to authorize the construction of PROJECT provided DEVELOPER strictly
25 complies with the provisions of this Agreement.

26 NOW, THEREFORE, DISTRICT, COUNTY and DEVELOPER hereto mutually
27 agree as follows:
28

SECTION I

DEVELOPER shall:

1. Prepare plans and specifications for PROJECT (Drawing No. 1-693), hereinafter called "IMPROVEMENT PLANS", in accordance with DISTRICT standards, and submit to DISTRICT for their review and approval.

2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT PLANS, review and approval of right of way and conveyance documents, and with the processing and administration of this Agreement.

3. Deposit with DISTRICT (Attention: Business Office - Accounts Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT construction as set forth in Section I.8., the estimated cost of providing construction inspection for PROJECT, in an amount as determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any amendments thereto, based upon the bonded value of PROJECT.

4. [This Section Intentionally Left Blank.]

5. Secure, at its sole cost and expense, all necessary licenses, agreements, permits and rights of entry as may be needed for the construction, inspection, operation and maintenance of PROJECT. DEVELOPER shall furnish DISTRICT, at the time of providing written notice to DISTRICT of the start of construction as set forth in Section I.8 with sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits and rights of entry, as determined and approved by DISTRICT.

1 6. Furnish DISTRICT with copies of all permits, approvals or agreements
2 required by any Federal or State resource and/or regulatory agency for the construction,
3 operation and maintenance of PROJECT. Such documents include but are not limited to those
4 issued by the U.S. Army Corps of Engineers, California Regional Water Quality Control Board,
5 California State Department of Fish and Game and State Water Resources Control Board.

6 7. Provide COUNTY, at the time of providing written notice to DISTRICT of
7 the start of construction as set forth in Section I.8., with faithful performance and payment
8 bonds, each in the amount of one hundred percent (100%) of the estimated cost for construction
9 of PROJECT as determined by DISTRICT. The surety, amount and form of the bonds shall be
10 subject to the approval of DISTRICT and COUNTY. The bonds shall remain in full force and
11 effect until PROJECT are accepted by DISTRICT as complete; at which time the faithful
12 performance bond amount may be reduced to ten percent (10%) for a period of one year to
13 guarantee against any defective work, labor or materials.
14

15 8. Notify DISTRICT in writing (Attention: Administrative Services Section),
16 at least twenty (20) days prior to the start of construction of PROJECT. Construction shall not
17 begin on any element of PROJECT, for any reason whatsoever, until DISTRICT has issued
18 DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction
19 of PROJECT.
20

21 9. Grant DISTRICT, by execution of this Agreement, the right to enter upon
22 DEVELOPER'S property where necessary and convenient for the purpose of gaining access to,
23 and performing inspection service for, the construction of PROJECT as set forth herein.

24 10. Obtain and provide DISTRICT, at the time of providing written notice to
25 DISTRICT of the start of construction of PROJECT as set forth in Section I.8., with duly
26 executed Irrevocable Offer(s) of Dedication to the public for flood control and drainage
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1 purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT for
2 the construction, inspection, operation and maintenance of PROJECT, as shown in concept
3 cross-hatched in red on Exhibit "B" attached hereto and made a part hereof. The Irrevocable
4 Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all
5 legal and equitable owners of the property described in the Offer(s).
6

7 11. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of Dedication
8 as set forth in Section I.10., with Preliminary Reports on Title dated not more than thirty (30)
9 days prior to date of submission of all the property described in the Irrevocable Offer(s) of
10 Dedication.

11 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
12 the start of construction as set forth in Section I.8., with a complete list of all contractors and
13 subcontractors to be performing work on PROJECT, including the corresponding license number
14 and license classification of each. At such time, DEVELOPER shall further identify in writing
15 its designated superintendent for construction of PROJECT.
16

17 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
18 the start of construction as set forth in Section I.8., a construction schedule which shall show the
19 order and dates in which the DEVELOPER or its contractor(s) propose to carry on the various
20 parts of work, including estimated start and completion dates. As construction of PROJECT
21 progresses, DEVELOPER shall update said construction schedule as requested by DISTRICT.
22

23 14. Furnish DISTRICT with the final mylar IMPROVEMENT PLANS and
24 assign their ownership to DISTRICT prior to the start of PROJECT construction.
25

26 15. Not permit any change to or modification of the IMPROVEMENT PLANS
27 without the prior written permission and consent of DISTRICT.
28

1 16. Comply with all Cal/OSHA safety regulations including regulations
2 concerning confined space and maintain a safe working environment for DEVELOPER and
3 DISTRICT employees on the site.

4
5 17. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
6 the start of construction as set forth in Section I.8., with a confined space entry procedure
7 specific to PROJECT. The procedure shall comply with requirements contained in California
8 Code of Regulations, Title 8 Section 5158, Other Confined Space Operations, Section 5157,
9 Permit Required Confined Space and DISTRICT Confined Space Procedures, SOM-18. The
10 procedure shall be reviewed and approved by DISTRICT prior to the issuance of a Notice to
11 Proceed.

12
13 18. During the construction period of PROJECT, provide Workers'
14 Compensation Insurance in an amount required by law. A certificate of said insurance policy
15 shall be provided to DISTRICT at the time of providing written notice pursuant to Section I.8.

16
17 19. Commencing on the date notice is given pursuant to Section I.8. and
18 continuing until DISTRICT accepts PROJECT for operation and maintenance:

- 19 (a) Provide and maintain or cause its contractor(s) to provide and
20 maintain comprehensive liability insurance coverage which shall
21 protect DEVELOPER from claim from damages for personal injury,
22 including accidental and wrongful death, as well as from claims for
23 property damage which may arise from DEVELOPER'S construction
24 of PROJECT or the performance of its obligations hereunder, whether
25 such construction or performance be by DEVELOPER, by any of
26 their contractors, subcontractors, or by anyone employed directly or
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1 indirectly by any of them. Such insurance shall name DISTRICT and
2 COUNTY as additional insureds with respect to this Agreement and
3 the obligations of DEVELOPER hereunder. Such insurance shall
4 provide for limits of not less than two million dollars (\$2,000,000)
5 per occurrence.

- 6
7 (b) Cause their insurance carrier(s) or their contractor's insurance
8 carrier(s), who shall be authorized by the California Department of
9 Insurance to transact the business of insurance in the State of
10 California, to furnish DISTRICT, at the time of providing written
11 notice to DISTRICT, of the start of construction as set forth in
12 Section I.8. with certificate(s) of insurance and applicable policy
13 endorsements showing that such insurance is in full force and effect
14 and that DISTRICT and COUNTY are named as additional insureds
15 with respect to this Agreement and the obligations of DEVELOPER
16 hereunder. Further, said certificate(s) shall state that the issuing
17 company shall give DISTRICT and COUNTY (60) days written
18 notice in the event of any cancellation, termination, non-renewal or
19 reduction in coverage of the policies evidenced by the certificate(s).
20 In the event of any such cancellation, termination, non-renewal or
21 reduction in coverage, DEVELOPER shall, forthwith, secure
22 replacement insurance meeting the provisions of this paragraph.
23
24

25 Failure to maintain the insurance required by this paragraph shall be deemed a material breach of
26 this Agreement and shall authorize and constitute authority for DISTRICT, at its sole discretion,
27 to proceed to perform the remaining work pursuant to Section IV.3.
28

1 20. Construct or cause to be constructed, PROJECT at DEVELOPER'S sole
2 cost and expense in accordance with DISTRICT approved IMPROVEMENT PLANS.

3 21. Within two (2) weeks of completing PROJECT construction, provide
4 DISTRICT with written notice (Attention: Contract Administration Section) that construction of
5 PROJECT is substantially complete and requesting that DISTRICT conduct a final inspection of
6 PROJECT.
7

8 22. Upon completion of PROJECT construction, but prior to DISTRICT
9 acceptance of PROJECT for ownership, operation and maintenance, convey, or cause to be
10 conveyed to DISTRICT flood control easement(s), including ingress and egress, in a form
11 approved by DISTRICT, for the rights of way as shown in concept cross-hatched in red on
12 Exhibit "B".
13

14 23. Accept ownership and sole responsibility for the operation and maintenance
15 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
16 and maintenance of PROJECT. Further, it is mutually understood by the parties hereto that prior
17 to DISTRICT acceptance of ownership and responsibility for the operation and maintenance of
18 PROJECT, PROJECT shall be in a satisfactorily maintained condition as solely determined by
19 DISTRICT.
20

21 24. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
22 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable
23 attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses and fees
24 shall be computed as costs and included in any judgment rendered.
25

26 25. Upon completion of construction of PROJECT, DEVELOPER'S civil
27 engineer of record or construction civil engineer of record, duly registered in the State of
28

1 California, shall provide DISTRICT a redlined "RECORD DRAWING" copy of
2 IMPROVEMENT PLANS. After DISTRICT approval of the redlined "RECORD DRAWING",
3 DEVELOPER'S engineer shall schedule with DISTRICT a time to meet at DISTRICT'S office
4 to (i) transfer the redlined changes onto DISTRICT'S original mylars and (ii) incorporate
5 changes to STORM DRAIN plans (Drawing No. 1-575), after which the engineer shall review,
6 stamp and sign the original IMPROVEMENT PLANS "RECORD DRAWING".
7

8 26. Ensure that all work performed pursuant to this Agreement by
9 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
10 regulations, including but not limited to all applicable provisions of the Labor Code, Business
11 and Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs
12 associated with compliance with applicable laws and regulations.
13

14 SECTION II

15 DISTRICT shall:

- 16
17 1. Review and approve IMPROVEMENT PLANS prior to the start of
18 PROJECT construction.
- 19 2. Upon execution of this Agreement, record or cause to be recorded, a copy of
20 this Agreement in the Official Records of the Riverside County Recorder.
- 21 3. Record, or cause to be recorded, the Irrevocable Offer(s) of Dedication
22 provided by DEVELOPER pursuant to Section I.10.
- 23 4. Inspect construction of PROJECT.
- 24 5. Keep an accurate accounting of all DISTRICT costs associated with the
25 review and approval of IMPROVEMENT PLANS and the processing and administration of this
26 Agreement.
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7. Accept ownership and sole responsibility for the operation and maintenance of PROJECT upon (i) DISTRICT acceptance of PROJECT construction as being complete and (ii) acceptance by DISTRICT of all rights of way as deemed necessary by DISTRICT for the operation and maintenance of PROJECT.

COUNTY shall:

4. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein and any other outstanding offers of dedication necessary for the construction,

1 inspection, operation and maintenance of STORM DRAIN, and convey sufficient rights of way
2 to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain STORM DRAIN.

3 SECTION IV

4 It is further mutually agreed:

5
6 1. All work involved with PROJECT shall be inspected by DISTRICT and
7 shall not be deemed complete until approved and accepted in writing as complete by DISTRICT.

8 2. COUNTY and DEVELOPER'S personnel may observe and inspect all work
9 being done on PROJECT, but shall provide any comments to DISTRICT personnel who shall be
10 solely responsible for all quality control communications with the DEVELOPER'S contractor(s)
11 during the construction of PROJECT.

12
13 3. DEVELOPER shall complete construction of PROJECT within twelve (12)
14 consecutive months after execution of this Agreement and within ninety (90) consecutive
15 calendar days after commencing work on PROJECT. It is expressly understood that since time is
16 of the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed
17 upon time shall constitute authority for DISTRICT to perform the remaining work and require
18 DEVELOPER'S surety to pay to COUNTY the penal sum of any and all bonds. In which case,
19 COUNTY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.

20
21 4. [This Section Intentionally Left Blank.]

22 5. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed
23 within twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in
24 Section I.8.; however, DISTRICT'S construction inspection staff is limited and, therefore, the
25 issuance of a Notice to Proceed is subject to staff availability.

26
27 In the event DEVELOPER wishes to expedite issuance of a Notice to
28 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at

1 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation
2 of the individual's credentials and experience to DISTRICT for review and, if appropriate,
3 approval. DISTRICT shall review the individual's qualifications and experience and, upon
4 approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be
5 authorized to act on DISTRICT'S behalf on all PROJECT construction and quality control
6 matters. If DEVELOPER'S initial construction inspection deposit furnished pursuant to Section
7 I.3. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to
8 eighty percent (80%) of DEVELOPER'S initial inspection deposit within forty-five (45) days of
9 DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand
10 dollars (\$10,000) shall be retained on account.
11

12 6. PROJECT construction work shall be on a five (5) day, forty (40) hour work
13 week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless
14 otherwise approved in writing by DISTRICT. If DEVELOPER feels it necessary to work more
15 than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written
16 request for permission from DISTRICT to work the additional hours. The request shall be
17 submitted to DISTRICT at least seventy-two (72) hours prior to the requested additional work
18 hours and state the reasons for the overtime and the specific time frames required. The decision
19 of granting permission for overtime work shall be made by DISTRICT at its sole discretion and
20 shall be final. If permission is granted by DISTRICT, DEVELOPER will be charged the cost
21 incurred at the overtime rates for additional inspection time required in connection with the
22 overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments
23 thereto, of the County of Riverside.
24

25 7. DEVELOPER shall indemnify and hold harmless DISTRICT and COUNTY
26 (including their agencies, districts, special districts and departments, their respective directors,
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1 officers, Board of Supervisors, elected and appointed officials, employees, agents and
2 representatives) from any liability, claim, damage, proceeding or action, present or future, based
3 upon, arising out of or in any way relating to DEVELOPER'S (including its officers, employees,
4 subcontractors and agents) actual or alleged acts or omissions related to this Agreement,
5 performance under this Agreement, or failure to comply with the requirements of this
6 Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
7 liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth
8 Amendment of the United States Constitution or any other law, ordinance or regulation caused
9 by the diversion of waters from the natural drainage patterns or the discharge of drainage within
10 or from PROJECT; or (d) any other element of any kind or nature whatsoever.

12 DEVELOPER shall defend, at its sole expense, including all costs and fees
13 (including but not limited to attorney fees, cost of investigation, defense and settlements or
14 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and
15 departments, their respective directors, officers, Board of Supervisors, elected and appointed
16 officials, employees, agents and representatives) in any claim, proceeding or action for which
17 indemnification is required.

19 With respect to any of DEVELOPER'S indemnification requirements,
20 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall
21 have the right to adjust, settle, or compromise any such claim, proceeding or action without the
22 prior consent of DISTRICT and COUNTY; provided, however, that any such adjustment,
23 settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S
24 indemnification obligations to DISTRICT or COUNTY.

26 DEVELOPER'S indemnification obligations shall be satisfied when
27 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal
28

1 relieving DISTRICT or COUNTY from any liability for the claim, proceeding or action
2 involved.

3 The specified insurance limits required in this Agreement shall in no way
4 limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT
5 and COUNTY from third party claims.

6 In the event there is conflict between this section and California Civil Code
7 Section 2782, this section shall be interpreted to comply with Civil Code 2782. Such
8 interpretation shall not relieve the DEVELOPER from indemnifying DISTRICT or COUNTY to
9 the fullest extent allowed by law.

10 8. Any waiver by DISTRICT or by COUNTY of any breach of any one or
11 more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or
12 other breach of the same or of any other term hereof. Failure on the part of DISTRICT or
13 COUNTY to require exact, full and complete compliance with any terms of this Agreement shall
14 not be construed as in any manner changing the terms hereof, or estopping DISTRICT or
15 COUNTY from enforcement hereof.

16 9. This Agreement is to be construed in accordance with the laws of the State
17 of California.

18 10. Any and all notices sent or required to be sent to the parties of this
19 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

20
21 RIVERSIDE COUNTY FLOOD CONTROL
22 AND WATER CONSERVATION DISTRICT
23 1995 Market Street
24 Riverside, CA 92501
25 Attn: Administrative Services

COUNTY OF RIVERSIDE
Post Office Box 1090
Riverside, CA 92502-1090
Attn: Transportation Department

26 COSTCO WHOLESALE CORPORATION
27 999 Lake Drive
28 Issaquah, WA 98027
Attn: Michael Okuma

1 11. Any action at law or in equity brought by any of the parties hereto for the
2 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court
3 of competent jurisdiction in the County of Riverside, State of California, and the parties
4 hereto waive all provisions of law providing for a change of venue in such proceedings to
5 any other county.
6

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

13 13. The rights and obligations of DEVELOPER shall inure to and be binding
14 upon all heirs, successors and assignees.
15

16 14. DEVELOPER shall not assign or otherwise transfer any of their rights,
17 duties or obligations hereunder to any person or entity without the written consent of the
18 other parties hereto being first obtained. In the event of any such transfer or assignment,
19 DEVELOPER expressly understands and agrees that it shall remain liable with respect to any
20 and all of the obligations and duties contained in this Agreement.
21

22 15. The individual(s) executing this Agreement on behalf of DEVELOPER
23 hereby certify they have the authority within their respective company(ies) to enter into and
24 execute this Agreement, and have been authorized to do so by any and all boards of directors,
25 legal counsel, and or any other board, committee or other entity within their respective
26 company(ies) which have the authority to authorize or deny entering this Agreement.
27
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1 16. This Agreement is intended by the parties hereto as a final expression of
2 their understanding with respect to the subject matter hereof and as a complete and exclusive
3 statement of the terms and conditions thereof and supersedes any and all prior and
4 contemporaneous agreements and understandings, oral or written, in connection therewith.
5 This Agreement may be changed or modified only upon the written consent of the parties
6 hereto.

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

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL: **RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

By Warren D. Williams By _____

WARREN D. WILLIAMS
General Manager-Chief Engineer

MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By Neal Kipnis By _____

NEAL KIPNIS
Deputy County Counsel

By _____
Deputy

(SEAL)

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By Juan C. Perez By _____

JUAN C. PEREZ
Director of Transportation

MARION ASHLEY, Chairman
County of Riverside Board of Supervisors

ATTEST:

FORM APPROVED COUNTY COUNSEL

KECIA HARPER-IHEM
Clerk of the Board

BY: Marshall Victor 4/24/10
MARSHALL VICTOR DATE

By _____

Deputy

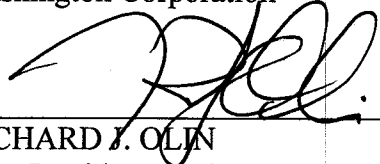
(SEAL)

Day Creek MDP Line F, stage 3

KEC:blj

2/24/10

COSTCO WHOLESALE CORPORATION,
a Washington Corporation

By 
RICHARD J. OLIN
Vice-President-Assistant Secretary

(ATTACH NOTARY WITH
CAPACITY STATEMENT)

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Day Creek MDP Line F, stage 3
KEC:blj
2/24/10

State of Washington)

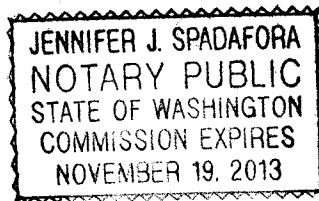
) ss:

County of King)

I certify that I know or have satisfactory evidence that Richard J. Olin is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the officer on behalf of Costco Wholesale Corporation to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: March 19, 2010

(Seal)



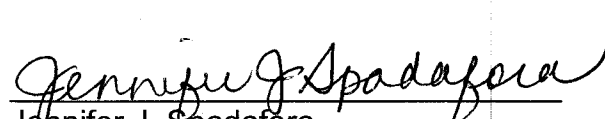

Jennifer J. Spadafora
My Appointment Expires: 11/19/2013
Residing at: Issaquah, Washington

Exhibit A

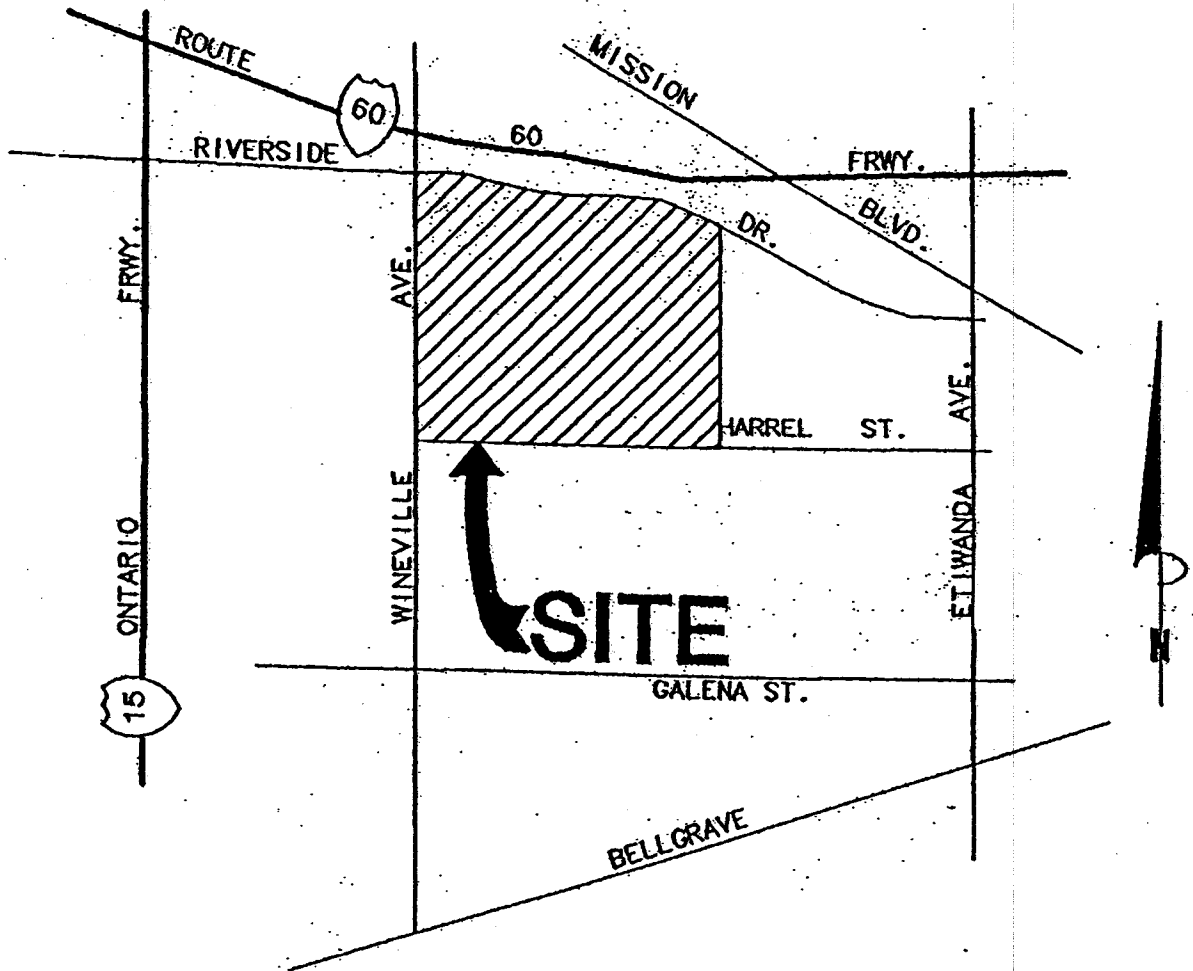


Exhibit A

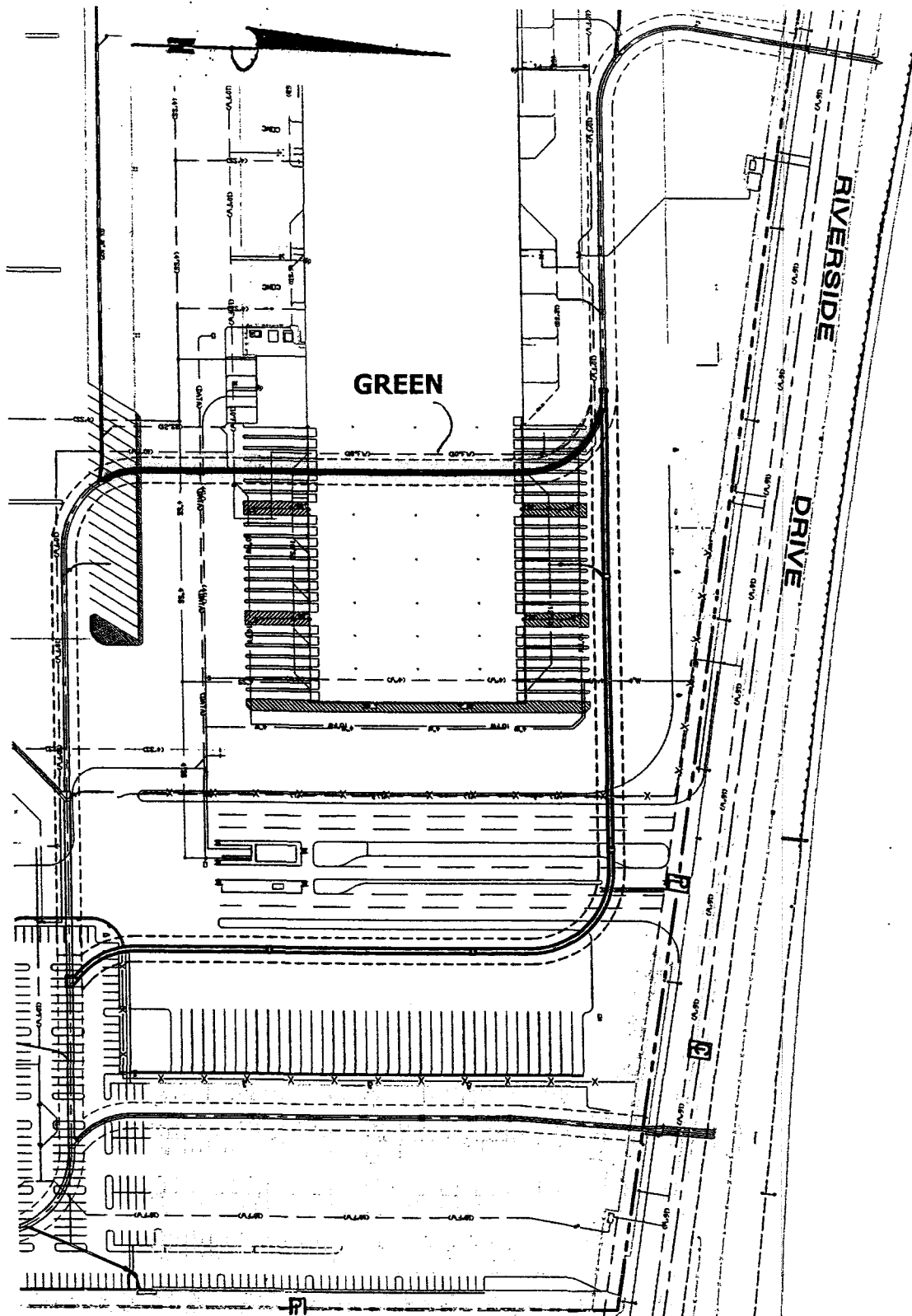


Exhibit A

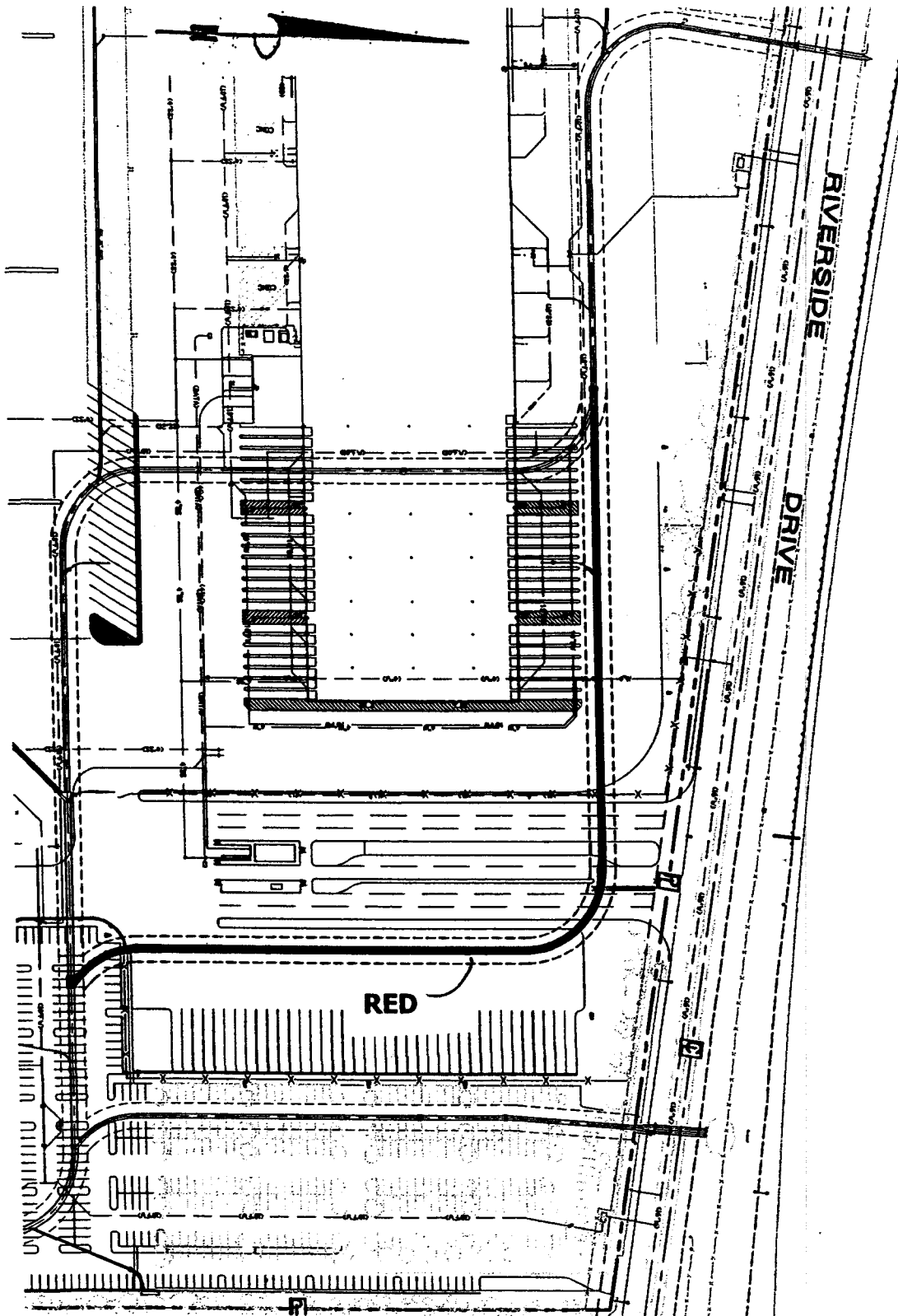


Exhibit B

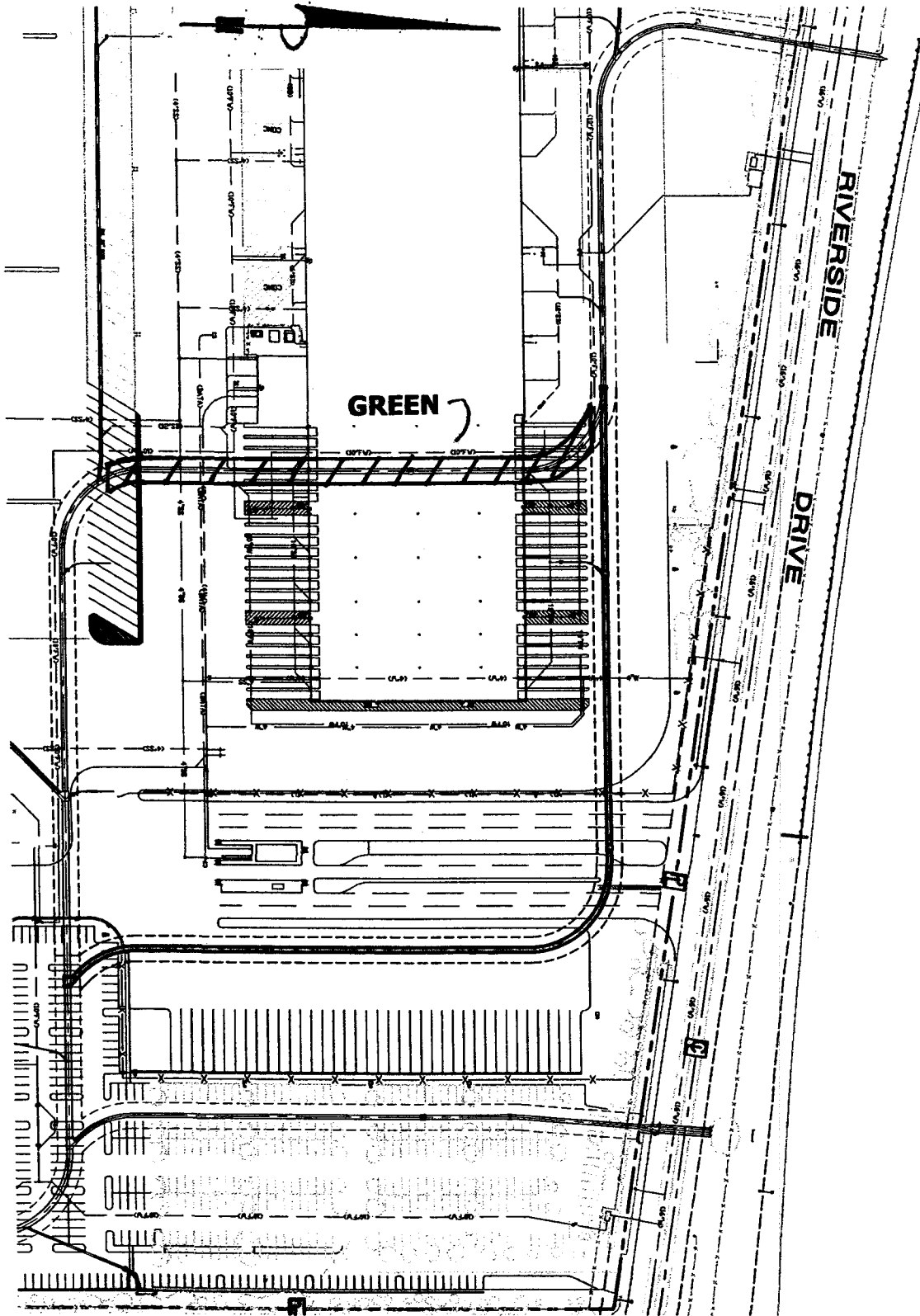


Exhibit B

