

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

305 B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
June 26, 2012

SUBJECT: Warm Springs Valley-French Valley Channel
Project No. 7-0-00205 (Tract Nos. 29114 and 32049)
Cooperative Agreement
District 3/District 3

RECOMMENDED MOTION:

1. Adopt Resolution No. F2012-10 which finds that the flood control improvements will not have a significant adverse effect upon the environment and are in compliance with the California Environmental Quality Act (CEQA) and the Western Riverside County Multiple Species Habitat Conservation Plan;
2. Adopt a Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Table;
3. Approve the Cooperative Agreement between the District, the County of Riverside (County) and Bellacap LLC (Developer);
4. Authorize the Chairman to execute the Agreement documents on behalf of the District; and
5. Direct the Clerk of the Board to deliver the Mitigated Negative Declaration and the Notice of Determination to the Office of the County Clerk and the State Office of Planning and Research for filing within 5 working days of this Board hearing.

Continued on Page 2

Warren D. Williams

WARREN D. WILLIAMS
General Manager-Chief Engineer

KEC:bj

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	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Michael R. Shetler*

Michael R. Shetler

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dept Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.:

District: 3rd/3rd **Agenda Number:**

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

11.3

FORM APPROVED COUNTY COUNSEL
BY: *NEAL R. KIPNIS*
DATE: *6/26/12*
Departmental Concurrence

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

SUBJECT: Warm Springs Valley-French Valley Channel
Project No. 7-0-00205 (Tract Nos. 29114 and 32049)
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Page 2

BACKGROUND: The Warm Springs Valley-French Valley Channel Slope Protection at Skyview Road and the Water Supply Crossing project is part of approved developments, Bella Sol and Capistrano (Tracts 32049 and 29114, respectively), which have been declared in conformity with the Quinta do Lago Specific Plan No. 284. Originally, the extension of Skyview Road across French Valley Channel was planned as secondary access, as well as a platform for a water supply line. The road, to have been located within the Riverside County Transportation Department (RCTD) right of way, would also have provided slope protection through construction of concrete abutments. Since that time, the Riverside County Board of Supervisors modified and substituted certain improvements in an effort to accomplish construction of needed work, to obtain funding for other transportation and planning efforts and to provide flexibility in the timing of delivery of the improvements.

While the original California Environmental Quality Act (CEQA) documents prepared for Tract Nos. 29114 and 32049 covered certain infrastructure improvements; additional infrastructure improvements are now necessary because of the modification and substitution of certain improvements. Therefore, further environmental review is necessary to address the changes and new infrastructure improvements associated with the aforementioned Tracts. The District assumes CEQA lead agency role and responsibility for those portions of the project that were not previously addressed in the original CEQA documents.

The proposed Project in place of the Skyview Road improvements involves the installation of slope protection measures within the floodplain of French Valley Channel in compliance with District requirements, and the installation of a redundant waterline across the floodplain required by Eastern Municipal Water District. Our District will be responsible for long-term maintenance of the flood control facilities, which have a total system length of approximately 500 linear feet.

This Agreement sets forth the terms and conditions by which certain flood control improvements associated with the Tracts' original COA and additional flood control improvements necessary due to the County approved modifications to the improvements to be constructed by the Developer.

This Agreement is necessary to provide for District and County construction inspection of their respective portions of the referenced facilities.

Upon completion of project construction, the District will assume ownership, operation and maintenance of the certain concrete and riprap slope protection, maintenance access roads and turnarounds. The County will assume ownership, operation and maintenance of the certain drop inlet, outlet structure, and connector pipe located within County's rights of way.

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

County Counsel has approved the Agreement as to legal form and the Developer has executed the Agreement. A companion item appears on the County of Riverside Transportation Department's agenda this same date.

KEC:blj

BOARD OF SUPERVISORS

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

**RESOLUTION NO. F2012-10
ADOPTING A MITIGATED NEGATIVE DECLARATION FOR
THE
FRENCH VALLEY CREEK SLOPE PROTECTION AT SKYVIEW ROAD
AND WATER SUPPLY CROSSING PROJECT**

WHEREAS, the French Valley Creek Slope Protection at Skyview Road and Water Supply Crossing Project (hereinafter referred to as the "Project") is located in Zone 7, and Riverside County Supervisory District 3 in the Southwest Area Plan of Western Riverside County in French Valley; and

WHEREAS, the proposed Project site is located north of Thompson Road, east of Winchester Road, west of Pourroy Road, and adjacent to Skyview Road; and

WHEREAS, the Quinta do Lago Specific Plan No. 284, of which the project is a component, was adopted by Riverside County on August 29, 1994; and

WHEREAS, the proposed Project is part of approved developments, Bella Sol and Capistrano (Tract Nos. 32049 and 29114, respectively), which have been declared in conformity with the Quinta do Lago Specific Plan No. 284. The proposed Project involves the installation of slope protection measures within the floodplain in compliance with District requirements, and the installation of an emergency waterline across the floodplain required by the Eastern Municipal Water District. The District will be responsible for long-term maintenance of the flood control facilities, which has a total system length of approximately 500 lineal feet; and

WHEREAS, all requirements of the California Environmental Quality Act and the District Rules to Implement the Act have been met and the General Manager-Chief Engineer of the District has found that the Project will not have a significant adverse effect upon the environment and has completed a Mitigated Negative Declaration; and

WHEREAS, the Initial Study/Mitigated Negative Declaration thoroughly addresses the environmental effects of implementing the Project, including the construction, operation, and maintenance of the various improvements identified therein; and

FORM APPROVED COUNTY COUNSEL
BY: *Michelle Clack* 9/12/12
DATE
MICHELLE CLACK

1 WHEREAS, the matter was discussed fully with testimony and documentation
2 presented by the public and affected government agencies.

3 NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the
4 Board of Supervisors of the Riverside County Flood Control and Water Conservation District
5 in regular session assembled on June 26, 2012 that:

6 1. The Project is within a Criteria Area set forth in and established by the Western
7 Riverside County Multiple Species Habitat Conservation Plan (MSHCP).

8 2. The Project is consistent with the Riparian/Riverine Area and Vernal Pool
9 requirements of the MSHCP. Pursuant to Section 6.1.2 of the MSHCP, Riparian/Riverine areas
10 are lands which contain habitat dominated by trees, shrubs, persistent emergents, or emergent
11 mosses and lichens, which occur close to or which depend upon soil moisture from a nearby
12 freshwater source, or areas with freshwater flow during all or a portion of the year. Vernal
13 Pools are seasonal wetlands that occur in depression areas that have wetlands indicators of all
14 three parameters (soils, vegetation, and hydrology) during the wetter portion of the growing
15 season. Although the Project area does not contain any vernal pools, the Project area includes
16 Riparian/Riverine Area (French Valley Creek) as defined by the MSHCP and analyzed in the
17 Initial Study/Mitigated Negative Declaration. The area adjacent to the work is an alkali flat,
18 not considered within the U.S. Army Corps of Engineers jurisdiction and may be within the
19 jurisdiction of the California Department of Fish and Game. An analysis of alternative slope
20 protection measures to avoid, minimize, and mitigate effects to Riparian/Riverine areas was
21 performed in accordance with MSHCP Section 6.1.2 and CEQA. The most cost-effective and
22 least disruptive alternative was selected. Therefore, the Project implements the avoidance and
23 minimization principle in compliance with the MSHCP and CEQA. The Project will result in
24 permanent impacts of approximately 0.09/0.19 acre (Corps/CDFG jurisdiction) to the riparian
25 streambed and temporary impacts of approximately 0.01 acre (CDFG only) to French Valley
26 Creek. The Project will compensate for impacts by restoring the riparian vegetation, removing
27 invasive species, removing a raised berm which is a barrier to seed dispersal and replanting it,
28

1 and setting aside 2.1 acres of land in conservation. The French Valley Creek low flow channel
2 will be relocated to avoid future maintenance impacts. The proposed Project area was assessed
3 for habitat that could support riparian birds per MSHCP Section 6.1.2 and habitat suitable to
4 support the least Bell's vireo and southwestern willow flycatcher was identified. Focused
5 surveys were subsequently conducted. In accordance with MSHCP Section 7.5.3 Construction
6 Guidelines, habitat clearing will be avoided during the active bird breeding season defined as
7 March 1st to August 31st.

8 3. The Project is consistent with the Narrow Endemic Plant Species requirements of
9 the MSHCP. Pursuant to Section 6.1.3 of the MSHCP, habitat assessments and/or focused
10 surveys for certain narrow endemic plant species are required for properties within mapped
11 survey areas. The survey area maps have been reviewed and the Project is located within the
12 Narrow Endemic Plant Species Survey Area (NEPSSA), Group 1, and the required focused
13 surveys for certain Narrow Endemic Plant Species were conducted. According to the results of
14 the focused surveys, no Narrow Endemic Plant Species were observed during the focused plant
15 surveys. Therefore, no further surveys or conservation measures are required.

16 4. The Project is consistent with the Urban/Wildlands Interface requirements of the
17 MSHCP. Section 6.1.4 of the MSHCP presents guidelines to minimize indirect effects of
18 projects in proximity to the MSHCP Conservation Area. Section 6.1.4 provides guidelines to
19 minimize impacts associated with: Drainage, Toxics, Lighting, Noise, Invasives, Barriers, and
20 Grading/Land Development. Section IV.f of the Initial Study/Mitigated Negative Declaration
21 identifies the measures that will be taken to minimize project effects because the Project is
22 adjacent to an existing MSHCP Conservation Area. Standard Best Management Practices as
23 listed in Section 6.1.4, 7.5.3 (Construction Guidelines), and Appendix C of the MSHCP
24 pertaining to drainage, toxics, lighting, noise, and invasives will be employed.

25 5. The Project is consistent with the Database Updates/Additional Surveys
26 requirement of the MSHCP. Pursuant to Section 6.3.2 of the MSHCP, habitat assessments and
27 focused surveys for certain additional plant and animal species are required for properties
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1 within mapped survey areas. The survey area maps have been reviewed and the Project is only
2 within a mapped survey area for the Burrowing Owl. Focused surveys were conducted
3 between June 17 and August 23, 2010. No Burrowing Owls were observed within the surveyed
4 area in 2010. In accordance with the MSHCP, a pre-construction survey for Burrowing Owls
5 will be conducted within 30 days prior to disturbance of the property for construction purposes.
6 The Project satisfies the plant, mammal, amphibian, and bird Additional Survey Needs and
7 Procedures requirements of the MSHCP.

8 7. The Project is consistent with the Public/Quasi-Public (P/QP) Land provisions
9 contained in Section 3.2.1 of the MSHCP. Section 3.2.1 describes lands within the MSHCP
10 conservation area including those designated as P/QP Lands. Section 3.2.1 states that if a
11 Permittee elects to use property currently depicted as P/QP Lands in a way that alters the land
12 use such that it would not contribute to Reserve Assembly, the Permittee shall locate and
13 acquire or otherwise encumber replacement acreage at a minimum ration of 1:1. The Permittee
14 must make findings that the replacement acreage is biologically equivalent or superior to the
15 existing property. The Project has been reviewed and it has been determined that the Project
16 does not occur within MSHCP designated P/QP Conservation Lands. Therefore, no further
17 analysis is required.

18 8. There is no substantial evidence in light of the whole record that the Project, with
19 mitigation, may have a significant effect upon the environment and the Mitigated Negative
20 Declaration represents the independent judgment of the District.

21 9. A Mitigated Negative Declaration is adopted based on the findings incorporated in
22 the initial study and the conclusion that the Project will not have a significant effect on the
23 environment.

24 BE IT FURTHER RESOLVED that, within five (5) working days of this Board
25 meeting, the Clerk of the Board is directed to deliver the adopted Mitigated Negative
26 Declaration and the Notice of Determination to the Office of the County Clerk and Recorder,
27 who are thereby directed to file same, and the Clerk of the Board is further directed to deliver
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1 the Notice of Determination to the State Office of Planning and Research, all as required by
2 law.

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RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

French Valley Creek Slope Protection at Skyview Road and Water Supply Crossing

Mitigation Monitoring and Reporting Table

Issue	Potential Impact	Mitigation Measures	Action	Implementing Entity	Governing Agency	Implementation Timing	Monitoring Frequency
III. Air Quality	During construction, there is potential for temporary increases in air pollution.	MM AQ-1: The contractor will be required to minimize air emissions by maintaining the equipment according to the manufacturers' recommendations and to comply with applicable provisions of the AQMD Rule 403 to implement appropriate fugitive dust control measures including watering, stabilized construction access to reduce tracking of mud or dirt onto public roads, covering trucks hauling loose material off-site and street sweeping of track-out.	Maintain equipment in good working condition and implement applicable dust control measures and submit weekly reports on compliance.	Project Applicant	South Coast Air Quality Management District	During the construction period	Daily monitoring during project construction
III. Air Quality	During construction, there is a potential for temporary increases in air pollution.	MM AQ-2: The contractor shall limit idling time to 5 minutes.	Limit idling time and submit weekly reports on compliance.	Project Applicant	None	During the construction period	Daily monitoring during project construction
IV. Biological Resources	There is the potential for impacts to burrowing owls.	MM BIO-1: A pre-construction burrowing owl survey will be conducted within 30 days prior to ground disturbance by a qualified biologist. If ground-disturbing activities are delayed or suspended for more than 30 days after the pre-con-	Conduct pre-construction burrowing owl survey.	Project Applicant	Riverside Conservation District (RCA)	30 days before construction	Once

Issue	Potential Impact	Mitigation Measures	Action	Implementing Entity	Governing Agency	Implementation Timing	Monitoring Frequency
		<p>struction survey, the site will be resurveyed. If a burrowing owl is detected, the applicant will follow the avoidance and mitigation measures described in the Burrowing Owl Survey Protocol and Mitigation Guidelines prepared by the California Burrowing Owl Consortium (CBOC) (1993).</p>					
IV. Biological Resources	Substantial effect on biological resources involved within a jurisdictional water feature as defined by federal, state, or local regulations.	<p>MM BIO-2: The project will be required to obtain 404, 401, and 1602 permits from the U.S. Army Corps of Engineers (Corps), Regional Water Quality Control Board (RWQCB), and California Department of Fish and Game (CDFG), respectively, prior to construction activities.</p>	Obtain regulatory permits; provide a copy of all permits to the District.	Project Applicant	Corps, CDFG, RWQCB	Pre-construction	Once
IV. Biological Resources	There is the potential to impact MSHCP Conservation Area.	<p>MM BIO-3: Within 90 days of commencement of construction activities, Bellacap will place the conservation easement over 2.1 acres of property located approximately 250 feet south of Skyview Road in favor of the Riverside Conservation Authority. Bellacap shall advise the Environmental Programs Division (EPD) when construction activities commence so EPD can verify that the easement has been established.</p>	Place conservation easement over 2.1 acres of property.	Project Applicant	RCA	With 90 days of start of construction	Once

Issue	Potential Impact	Mitigation Measures	Action	Implementing Entity	Governing Agency	Implementation Timing	Monitoring Frequency
IV. Biological Resources	There is the potential to impact habitat adjacent to the work area.	MM BIO-4: To avoid impacts to existing habitat, Bellacap will require as part of the construction contract that a temporary fence (e.g., snow fencing) be installed around existing habitat to be preserved prior to construction; the installation and maintenance of this avoidance measure will be independently monitored during construction by the project biologist.	Install protective fencing around sensitive habitat. This avoidance measure will be independently monitored during construction.	Project Applicant	Corps, CDFG, RCA	Pre-construction	Throughout construction
IV. Biological Resources	Substantial effect on biological resources involved within a jurisdictional water feature as defined by federal, state, or local regulations.	MM BIO-5: An approved Habitat Mitigation and Monitoring Plan to meet the conditions of the permits will be implemented. The final restoration and monitoring plan will be approved by the Corps, CDFG, and RWQCB, and implementation of this mitigation measure will be overseen by a qualified biologist. Conceptual mitigation measures include: Planting native vegetation in all areas temporarily disturbed by construction activities to replicate exist-	Mitigate all temporary and permanent impacts to habitat throughout the project site with native vegetation to mimic the existing conditions. Restoration will be overseen by a qualified biologist. A copy of the approved plan will be provided to the District.	Project Applicant	Corps, CDFG, RWQCB	pre-construction (HMMP approval); post-construction (revegetation)	Annually, up to 5 years after construction

Issue	Potential Impact	Mitigation Measures	Action	Implementing Entity	Governing Agency	Implementation Timing	Monitoring Frequency
		<p>ing vegetation types.</p> <p>Realigning the low flow channel with a channel of the same width, acreage, and vegetation, including CDFG streambed vegetation to mitigate permanent impacts to the low flow channel at a 1:1 ratio.</p> <p>Removing approximately 0.20 acre of invasive species such as the tobacco tree (<i>Nicotiana glauca</i>), which has formed a "forest" adjacent to the riparian habitat, to compensate for temporal loss of habitat.</p> <p>Additional habitat improvements will result from the removal of the existing berm road traversing the flood control channel. This will improve flood control and to allow for downstream recruitment of natives (e.g., smooth tar plant) disturbed ground will be planted with native plants.</p>					
IV. Biological Resources	There could be impacts to nesting birds.	MM BIO-6: Vegetation will not be removed or otherwise disturbed on the project site from March 15 to September 15 to avoid impacts to breeding/ nest-	Conduct surveys prior to construction if activities occur during nesting season, from	Project Applicant	Corps, CDFG, RCA	March 15 to September 15	1 week prior to construction activities

Issue	Potential Impact	Mitigation Measures	Action	Implementing Entity	Governing Agency	Implementation Timing	Monitoring Frequency
		<p>ing birds. If work during the breeding/ nesting season cannot be avoided, then prior to construction or site preparation activities, a qualified biologist will survey all breeding/ nesting habitat within and adjacent to the project site for breeding/nesting birds. Surveys shall be conducted every 2-3 days for a 1-week period with the last survey no later than 3 days prior to vegetation removal activities. These measures shall address the federally endangered least Bell's vireo.</p>	<p>March 15 to September 15 and provide a copy of the survey results to the District and to RCA.</p>				
<p>V. Cultural Resources</p>	<p>During construction, there is the potential to impact historical, archeological, or paleontological resources.</p>	<p>MM CR-1: If historical, archeological, or paleontological resources are accidentally discovered during construction, ground disturbance activities in the vicinity of the find shall cease until a qualified historical, archeological, or paleontological resources specialist can assess the significance of the find and, if necessary, develop appropriate treatment measures. Any discovered resources that merit long term consideration shall be collected and reported in accordance with current</p>	<p>Excavation activities will cease if potential historical resources are encountered and the District will be notified. Project application will retain a qualified specialist to evaluate the resources.</p>	<p>Project Applicant</p>	<p>State Historic Preservation Officer (historical resources)</p>	<p>During excavation activities</p>	<p>During excavation activities</p>

Issue	Potential Impact	Mitigation Measures	Action	Implementing Entity	Governing Agency	Implementation Timing	Monitoring Frequency
V. Cultural Resources	During construction, there is the potential to encounter human remains.	protocols. MM CR-2: Pursuant to State Health and Safety Code Section 7050.5, if human remains are encountered during construction, ground disturbance activities in the vicinity of the find shall cease until the Riverside County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The Riverside County Coroner must be notified within 24 hours.	Halt construction and notify the County Coroner's Office for proper identification of any human remains found onsite.	Project Applicant	Riverside County Coroner	During excavation activities	Daily observations during excavation activities
VII. Hazards & Hazardous Materials	Construction activity may uncover potentially hazardous materials.	MM HHM-1: If previously unknown hazardous wastes/materials are encountered in the field during construction, ground disturbance activities in the vicinity of the discovery shall cease until a qualified hazardous materials management specialist can assess the potentially hazardous substances and, if necessary, develop appropriate management measures for the treatment and disposal of the materials in accordance with applicable laws and regulation set by the appropriate regulatory agencies.	If potentially hazardous materials are uncovered, cease ground disturbance near the material until a qualified hazardous materials specialist assesses the materials and provides recommendation for their treatment and disposal.	Project Applicant	To be determined by hazardous material specialist	During excavation activities	Daily observation during excavation activities

Issue	Potential Impact	Mitigation Measures	Action	Implementing Entity	Governing Agency	Implementation Timing	Monitoring Frequency
VII. Hazardous & Hazardous Materials	There is the potential for accidental spills.	MM HHM-2: BMPs stipulating proper storage of hazardous materials and vehicle fueling will be implemented during construction. MM HHM-3: The contractor will prepare a Spill Prevention, Control, and Countermeasures Plan and will have the emergency response materials identified in the plan on site.	The contractor will prepare a plan to respond to accidental spills.	Project Applicant	RWQCB	Prior to construction	During construction
VII. Hazardous & Hazardous Materials	There is the potential for accidental spills.	MM HHM-3: The contractor will prepare a Spill Prevention, Control, and Countermeasures Plan and will have the emergency response materials identified in the plan on site.	The contractor will prepare a plan to respond to accidental spills. Project Applicant will verify the response materials are on site.	Project Applicant	RWQCB	Prior to construction	During construction
VIII. Hydrology & Water Quality	There is the potential for untreated water to flow from the project site.	MM HY-1: A permit under the National Pollution Discharge Elimination System, (NPDES) will be obtained. The contractor will comply with all of the applicable requirements of the NPDES permit and shall conform to NPDES Best Management Practices for Storm Water Pollution Prevention Plans during the life of this permit.	The contractor will prepare and comply with an approved storm water management plan. Monitoring will be conducted by an independent monitor. A copy of the plan and monitoring results will be provided to the District.	Project Applicant	RWQCB	Prior to construction	During construction
VIII. Hydrology & Water Quality	There is potential for untreated water to flow from the project site.	MM HY-2: The temporary detention basin will be sized to hold sufficient volume for the sediment to settle, and monitoring would occur for turbidity, temperature, and pH prior to release into the creek.	Design and construct temporary detention basins.	Project Applicant	RWQCB	Prior to construction	During construction

Issue	Potential Impact	Mitigation Measures	Action	Implementing Entity	Governing Agency	Implementation Timing	Monitoring Frequency
VIII. Hydrology & Water Quality	There is the potential for the relocated low flow channel to increase downstream erosion.	MM HY-3: The design of the relocated low flow channel will mimic the existing channel in width, depth, and habitat characteristics.	Design the relocated low flow to mimic existing physical and biological conditions.	Project Applicant	None	Prior to construction	During construction
XI. Noise	The use of heavy equipment during project construction may temporarily increase noise levels within nearby areas.	MM N-1: Use of heavy equipment shall be limited to 7 a.m. to 6 p.m. during weekdays and Saturdays, and prohibited on Sundays, except under special circumstances approved by the District. During daylight savings time, use of heavy equipment shall be limited to 6 a.m. to 6 p.m. during weekdays and Saturdays, and prohibited on Sundays, except under special circumstances approved by the District.	Construction will occur during the time periods described in this mitigation measure.	Project Applicant	None	During construction	During construction

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COOPERATIVE AGREEMENT

Warm Springs Valley-French Creek Channel
Tract Nos. 29114 and 32049
Project No. 7-0-00205

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", the COUNTY OF RIVERSIDE, on behalf of its Transportation Department, hereinafter called "COUNTY", and BELLACAP, LLC, a California limited liability company, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DEVELOPER is the fee owner of that certain real property located in the County of Riverside, California, consisting of approximately 74 acres, hereinafter called "PROPERTY", as more particularly described in Exhibit "A" attached hereto and made a part hereof; and

B. DEVELOPER is also the fee owner of certain real property located in the County of Riverside identified as Tract No. 32049; and

C. PROPERTY is subject to Tract No. 29114, a recorded final map permitting the development of 259 single-family residential units on PROPERTY; and

D. Pursuant to the terms of a separate agreement between DEVELOPER and COUNTY executed on January 31, 2012, hereinafter called "IMPROVEMENT AGREEMENT", DEVELOPER has agreed to complete certain infrastructure improvements and to furnish COUNTY with cash deposits in lieu of posting payment and performance bonds; and

E. Included as part of the required infrastructure improvements is the completion of certain flood control improvements, as shown in concept outlined in purple on Exhibit "B" attached hereto and made a part hereof. The flood control improvements consist of

1 the construction of certain concrete and riprap slope protection, maintenance access roads, and
2 turnarounds, hereinafter collectively called "DISTRICT DRAINAGE FACILITIES", as shown
3 on District Drawing Nos. 7-485 and 7-486; and

4 F. Associated with the construction of DISTRICT DRAINAGE FACILITIES
5 is the construction of a certain outlet structure, a certain drop inlet and connector pipe,
6 hereinafter called "APPURTENANCES". Together DISTRICT DRAINAGE FACILITIES and
7 APPURTENANCES are hereinafter called "PROJECT"; and

8 G. While the original California Environmental Quality Act (CEQA)
9 documents prepared for Tract Nos. 29114 and 32049 covered certain infrastructure
10 improvements, additional infrastructure improvements are now necessary due to COUNTY
11 approved changes to the Tracts' original Conditions of Approval. Therefore, further
12 environmental review is necessary to address the changes and new infrastructure improvements
13 associated with the aforementioned Tracts. DISTRICT is willing to assume CEQA lead agency
14 role and responsibility for those portions of PROJECT that were not previously addressed in the
15 original CEQA documents; and

16 H. DEVELOPER and COUNTY desire DISTRICT to accept ownership and
17 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.
18 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for
19 PROJECT and subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES;
20 and

21 I. DEVELOPER and DISTRICT desire COUNTY to accept ownership and
22 responsibility for the operation and maintenance of APPURTENANCES. Therefore, COUNTY
23 must review and approve DEVELOPER'S plans and specifications for PROJECT and
24 subsequently inspect the construction of APPURTENANCES; and
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1 J. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and
 2 specifications for DISTRICT DRAINAGE FACILITIES, (ii) inspect the construction of
 3 DISTRICT DRAINAGE FACILITIES, and (iii) accept ownership and responsibility for the
 4 operation and maintenance of DISTRICT DRAINAGE FACILITIES upon completion provided
 5 DEVELOPER (i) complies with this Agreement, (ii) pays DISTRICT the amounts specified
 6 herein to cover DISTRICT'S plan review and construction inspection costs, (iii) constructs
 7 DISTRICT DRAINAGE FACILITIES in accordance with plans and specifications approved by
 8 DISTRICT, (iv) obtains all necessary permits, regulatory permits, licenses and rights of entry as
 9 set forth herein, and (v) accepts ownership and responsibility for the operation and maintenance
 10 of DISTRICT DRAINAGE FACILITIES following completion of construction until such time
 11 as COUNTY accepts ownership and responsibility for the operation and maintenance of
 12 APPURTENANCES; and

14 K. COUNTY is willing to (i) grant DISTRICT the right to inspect, operate and
 15 maintain DISTRICT DRAINAGE FACILITIES within COUNTY rights of way, (ii) hold cash
 16 deposits in lieu of payment and performance bonds, and (iii) accept ownership and
 17 responsibility for the operation and maintenance of APPURTENANCES upon completion of
 18 APPURTENANCES construction and DISTRICT acceptance of DISTRICT DRAINAGE
 19 FACILITIES.

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

22 SECTION I

23 DEVELOPER shall:

- 24 1. Prepare plans and specifications for PROJECT, as shown on District
 25 Drawing Nos. 7-485 and 7-486, hereinafter called "IMPROVEMENT PLANS", in accordance
 26 with DISTRICT standards, and submit to DISTRICT for review and approval.
 27

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

5 3. Deposit with DISTRICT (Attention: Business Office – Accounts
6 Receivable), at the time of providing written notice to DISTRICT of the start of DISTRICT
7 DRAINAGE FACILITIES construction as set forth in Section I.8. herein, the estimated cost of
8 providing construction inspection for DISTRICT DRAINAGE FACILITIES, in an amount as
9 determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the
10 County of Riverside, including any amendments thereto, based upon Engineer's Cost Estimate
11 of DISTRICT DRAINAGE FACILITIES
12

13 4. [THIS SECTION INTENTIONALLY LEFT BLANK]

14 5. Secure, at its sole cost and expense, all necessary licenses, agreements,
15 permits and rights of entry as may be needed for the construction, inspection, operation and
16 maintenance of DISTRICT DRAINAGE FACILITIES. DEVELOPER shall furnish
17 DISTRICT, at the time of providing written notice to DISTRICT of the start of construction as
18 set forth in Section I.8., with sufficient evidence of DEVELOPER having secured such
19 necessary licenses, agreements, permits and rights of entry, as determined and approved by
20 DISTRICT.
21

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

3 7. In accordance with the terms and conditions of IMPROVEMENT
4 AGREEMENT, establish a security account with COUNTY, hereinafter called
5 "IMPROVEMENT ACCOUNT", and deposit cash in lieu of posting payment and performance
6 bonds. The amount and form of IMPROVEMENT ACCOUNT has been approved by
7 COUNTY. IMPROVEMENT ACCOUNT shall be administered by COUNTY and shall remain
8 in full force and effect until such time as DISTRICT accepts ownership and responsibility for
9 DISTRICT DRAINAGE FACILITIES set forth herein.
10

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

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

22 10. [THIS SECTION INTENTIONALLY LEFT BLANK]

23 11. [THIS SECTION INTENTIONALLY LEFT BLANK]

24 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
25 the start of construction as set forth in Section I.8., with a complete list of all contractors and
26 subcontractors to be performing work on DISTRICT DRAINAGE FACILITIES, including the
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1 corresponding license number and license classification of each. At such time, DEVELOPER
2 shall further identify in writing its designated superintendent for DISTRICT DRAINAGE
3 FACILITIES construction.

4 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
5 the start of construction as set forth in Section I.8., a construction schedule which shall show the
6 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry on the
7 various parts of work, including estimated start and completion dates. As construction of
8 DISTRICT DRAINAGE FACILITIES progresses, DEVELOPER shall update said construction
9 schedule as requested by DISTRICT.

10
11 14. Furnish DISTRICT with final mylar IMPROVEMENT PLANS and assign
12 their ownership to DISTRICT at the time DISTRICT approves and signs said final mylar
13 IMPROVEMENT PLANS, and prior to the start of DISTRICT DRAINAGE FACILITIES
14 construction.

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

18
19 16. Comply with all Cal/OSHA safety regulations including regulations
20 concerning an Illness Prevention Plan (IIP) and maintain a safe working environment for
21 DEVELOPER, COUNTY and DISTRICT employees on the site.

22 17. [THIS SECTION INTENTIONALLY LEFT BLANK].

23
24 18. During the construction period of DISTRICT DRAINAGE FACILITIES,
25 provide Workers' Compensation Insurance in an amount required by law. A certificate of said
26 insurance policy shall be provided to DISTRICT and COUNTY at the time of providing written
27 notice pursuant to Section I.8.
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1 19. Commencing on the date notice is given pursuant to Section I.8. and
2 continuing until DISTRICT accepts DISTRICT DRAINAGE FACILITIES for ownership,
3 operation and maintenance:

4 (a) Provide and maintain or cause its contractor(s) to provide and
5 maintain comprehensive liability insurance coverage which shall
6 protect DEVELOPER from claim from damages for personal injury,
7 including accidental and wrongful death, as well as from claims for
8 property damage which may arise from DEVELOPER'S construction
9 of PROJECT or the performance of its obligations hereunder,
10 whether such construction or performance be by DEVELOPER, by
11 any of its contractors, subcontractors, or by anyone employed
12 directly or indirectly by any of them. Such insurance shall name
13 DISTRICT and the County of Riverside as additional insureds with
14 respect to this Agreement and the obligations of DEVELOPER
15 hereunder. Such insurance shall provide for limits of not less than
16 two million dollars (\$2,000,000) per occurrence.

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19 (b) Cause its insurance carrier(s) or its contractor's insurance carrier(s),
20 who shall be authorized by the California Department of Insurance to
21 transact the business of insurance in the State of California, to
22 furnish DISTRICT and the County of Riverside at the time of
23 providing written notice to DISTRICT of the start of construction as
24 set forth in Section I.8., with certificate(s) of insurance and
25 applicable policy endorsements showing that such insurance is in full
26 force and effect and that DISTRICT and the County of Riverside are
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named as additional insureds with respect to this Agreement and the obligations of DEVELOPER hereunder. Further, said certificate(s) shall state that the issuing company shall give DISTRICT and the County of Riverside thirty (30) days written notice in the event of any cancellation, termination, non-renewal or reduction in coverage of the policies evidenced by the certificate(s). In the event of any such cancellation, termination, non-renewal or reduction in coverage, DEVELOPER shall, forthwith, secure replacement insurance meeting the provisions of this paragraph.

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

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

21. Within two (2) weeks of completing DISTRICT DRAINAGE FACILITIES construction, provide DISTRICT (Attention: Contract Administration Section) construction is substantially complete and requesting that DISTRICT conduct a final inspection of DISTRICT DRAINAGE FACILITIES.

22. [THIS SECTION INTENTIONALLY LEFT BLANK]

23. Accept ownership and sole responsibility for the operation and maintenance of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation and maintenance of DISTRICT DRAINAGE FACILITIES and COUNTY accepts ownership

1 and responsibility for operation and maintenance of APPURTENANCES. Further, it is
2 mutually understood by the parties hereto that prior to DISTRICT acceptance of ownership and
3 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES,
4 DISTRICT DRAINAGE FACILITIES shall be in a satisfactorily maintained condition as solely
5 determined by DISTRICT.

6 24. Pay, if suit is brought upon this Agreement or upon IMPROVEMENT
7 AGREEMENT, the completion of DISTRICT DRAINAGE FACILITIES, all costs and
8 reasonable expenses and fees, including reasonable attorneys' fees, and acknowledge that, upon
9 entry of judgment, all such costs, expenses and fees shall be computed as costs and included in
10 any judgment rendered.
11

12 25. Upon completion of construction but prior to DISTRICT acceptance of
13 DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance, provide, or
14 cause its civil engineer of record or construction civil engineer of record, duly registered in the
15 State of California to provide, DISTRICT with a redlined "RECORD DRAWING" copy of
16 plans for DISTRICT DRAINAGE FACILITIES. After DISTRICT approval of the redlined
17 "RECORD DRAWING" plans, DEVELOPER'S engineer shall schedule with DISTRICT a time
18 to transfer the redlined changes onto DISTRICT'S original mylars at DISTRICT'S office, after
19 which the engineer shall review, stamp and sign the original mylars "RECORD DRAWING".
20

21 26. Ensure that all work performed pursuant to this Agreement by
22 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
23 regulations, including but not limited to all applicable provisions of the Labor Code, Business
24 and Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs
25 associated with compliance with applicable laws and regulations.
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SECTION II

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DISTRICT shall:

1. Pursuant to CEQA, assume lead agency role and responsibility for preparation, circulation, and adoption of all necessary and appropriate CEQA documents pertaining to the construction, operation and maintenance of PROJECT.
2. Review and approve IMPROVEMENT PLANS prior to the start of DISTRICT DRAINAGE FACILITIES construction.
3. Upon execution of this Agreement, record or cause to be recorded, a copy of this Agreement in the Official Records of the Riverside County Recorder.
4. Inspect DISTRICT DRAINAGE FACILITIES construction.
5. Acknowledge, by execution of this agreement, receipt of Zone 7-Maintenance Trust Fund fee as paid in full by the prior owner of Tract Nos. 29114 and 32049 under terms of the respective cooperative agreements.
6. Keep an accurate accounting of all DISTRICT costs associated with the review and approval of IMPROVEMENT PLANS, the review and approval of right of way and conveyance documents and the processing and administration of this Agreement.
7. Keep an accurate accounting of all DISTRICT construction inspection costs, and within forty-five (45) days after DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES as being complete, submit a final cost statement to DEVELOPER. If the deposit, as set forth in Section I.3. exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES construction as being complete. If at any time the costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit, DEVELOPER shall pay such additional

1 amount(s), as deemed reasonably necessary by DISTRICT to complete inspection of DISTRICT
2 DRAINAGE FACILITIES, within thirty (30) days after receipt of billing from DISTRICT.

3 8. Accept ownership and sole responsibility for the operation and maintenance
4 of DISTRICT DRAINAGE FACILITIES upon (i) DISTRICT acceptance of DISTRICT
5 DRAINAGE FACILITIES construction as being complete, (ii) DISTRICT receipt of stamped
6 and signed RECORD DRAWINGS of plans as set forth in Section I.25, (iii) acceptance by
7 COUNTY of all necessary street rights of way as deemed necessary by DISTRICT and
8 COUNTY for the operation and maintenance of PROJECT, (iv) COUNTY acceptance of
9 APPURTENANCES for ownership, operation and maintenance, and (v) DISTRICT'S sole
10 determination that DISTRICT DRAINAGE FACILITIES are in a satisfactorily maintained
11 condition.
12

13 9. Provide COUNTY with a reproducible duplicate copy of "RECORD
14 DRAWING" plans upon DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES
15 construction as being complete.
16

17 SECTION III

18 COUNTY shall:

19 1. Act as a Responsible Agency under CEQA, and take all necessary and
20 appropriate action to comply with CEQA.

21 2. Under the terms and conditions of IMPROVEMENT AGREEMENT,
22 accept and hold deposits from DEVELOPER in an amount sufficient to insure the satisfactory
23 completion of PROJECT.
24

25 3. Agree to retain, for a period of one year from DISTRICT acceptance of
26 DISTRICT DRAINAGE FACILITIES for operation and maintenance, an amount equal to ten
27 percent of the deposit posted for completion of DISTRICT DRAINAGE FACILITIES. The
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1 retained deposit will be released to DEVELOPER after one year except upon written notice
2 from DISTRICT to retain deposit.

3 4. Consent, by execution of this Agreement, to the recording of any
4 Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.

5 5. Inspect construction of APPURTENANCES.

6 6. Grant DISTRICT, by execution of this Agreement, the right to construct,
7 inspect, operate and maintain DISTRICT DRAINAGE FACILITIES within COUNTY rights of
8 way.

9 7. Accept ownership and sole responsibility for the operation and maintenance
10 of APPURTENANCES upon DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES
11 as being complete.
12

13 SECTION IV

14 It is further mutually agreed:

15 1. All work involved with DISTRICT DRAINAGE FACILITIES shall be
16 inspected by DISTRICT and shall not be deemed complete until approved and accepted in
17 writing as complete by DISTRICT.

18 2. COUNTY and DEVELOPER personnel may observe and inspect all work
19 being done on DISTRICT DRAINAGE FACILITIES, but shall provide any comments to
20 DISTRICT personnel who shall be solely responsible for all quality control communications
21 with the DEVELOPER'S contractor(s) during the construction of DISTRICT DRAINAGE
22 FACILITIES.
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24 3. DEVELOPER shall complete construction of DISTRICT DRAINAGE
25 FACILITIES within twelve (12) consecutive months after execution of this Agreement and
26 within one hundred sixty (160) consecutive calendar days after commencing work on
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1 DISTRICT DRAINAGE FACILITIES. It is expressly understood that since time is of the
2 essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon
3 time shall constitute authority for DISTRICT to perform the remaining work and require
4 COUNTY to subsequently reimburse DISTRICT from deposits required in IMPROVEMENT
5 AGREEMENT for DISTRICT costs incurred.

6 4. DEVELOPER shall not request DISTRICT to accept any portion or
7 portions of DISTRICT DRAINAGE FACILITIES prior to the completion of DISTRICT
8 DRAINAGE FACILITIES construction.

9 5. DEVELOPER and DISTRICT knowingly and voluntarily waive the
10 provisions of Government Code Section 65913.8, relating to fees and charges. Such waiver is
11 accomplished with the understanding that DISTRICT is voluntarily undertaking the obligation
12 to accept ownership and responsibility for the operation and maintenance of DISTRICT
13 DRAINAGE FACILITIES, and DEVELOPER is not required by DISTRICT to enter into this
14 Agreement.

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

19 7. In the event DEVELOPER wishes to expedite issuance of a Notice to
20 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at
21 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation
22 of the individual's credentials and experience to DISTRICT for review and, if appropriate,
23 approval. DISTRICT shall review the individual's qualifications and experience and, upon
24 approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be
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1 authorized to act on DISTRICT'S behalf on all DISTRICT DRAINAGE FACILITIES
2 construction and quality control matters. If DEVELOPER'S initial construction inspection
3 deposit furnished pursuant to Section I.3. exceeds ten thousand dollars (\$10,000), DISTRICT
4 shall refund to DEVELOPER up to eighty percent (80%) of DEVELOPER'S initial inspection
5 deposit within forty-five (45) days of DISTRICT'S approval of DEPUTY INSPECTOR;
6 however, a minimum balance of ten thousand dollars (\$10,000) shall be retained on account.

7
8 8. DISTRICT DRAINAGE FACILITIES construction work shall be on a five
9 (5) day, forty (40) hour work week with no work on Saturdays, Sundays or DISTRICT
10 designated legal holidays, unless otherwise approved in writing by DISTRICT. If
11 DEVELOPER feels it is necessary to work more than the normal forty (40) hour work week or
12 on holidays, DEVELOPER shall make a written request for permission from DISTRICT to
13 work the additional hours. The request shall be submitted to DISTRICT at least seventy-two
14 (72) hours prior to the requested additional work hours and state the reasons for the overtime
15 and the specific time frames required. The decision of granting permission for overtime work
16 shall be made by DISTRICT at its sole discretion and shall be final. If permission is granted by
17 DISTRICT, DEVELOPER will be charged the cost incurred at the overtime rates for additional
18 inspection time required in connection with the overtime work in accordance with Ordinance
19 Nos. 671 and 749, including any amendments thereto, of the County of Riverside.

20
21 9. DEVELOPER shall indemnify and hold harmless DISTRICT and
22 COUNTY (including their agencies, districts, special districts and departments, their respective
23 directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and
24 representatives) from any liability, claim, damage, proceeding or action, present or future, based
25 upon, arising out of or in any way relating to DEVELOPER'S (including its officers, employees,
26 subcontractors and agents) actual or alleged acts or omissions related to this Agreement,
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1 performance under this Agreement, or failure to comply with the requirements of this
2 Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
3 liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth
4 Amendment of the United States Constitution or any other law, ordinance or regulation caused
5 by the diversion of waters from the natural drainage patterns or the discharge of drainage within
6 or from DISTRICT DRAINAGE FACILITIES; or (d) any other element of any kind or nature
7 whatsoever.

8
9 DEVELOPER shall defend, at its sole expense, including all costs and fees
10 (including but not limited to attorney fees, cost of investigation, defense and settlements or
11 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and
12 departments, their respective directors, officers, Board of Supervisors, elected and appointed
13 officials, employees, agents and representatives) in any claim, proceeding or action for which
14 indemnification is required.

15
16 With respect to any of DEVELOPER'S indemnification requirements,
17 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall
18 have the right to adjust, settle or compromise any such claim, proceeding or action without the
19 prior consent of DISTRICT and COUNTY; provided, however, that any such adjustment,
20 settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S
21 indemnification obligations to DISTRICT or COUNTY.

22
23 DEVELOPER'S indemnification obligations shall be satisfied when
24 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal
25 relieving DISTRICT or COUNTY from any liability for the claim, proceeding or action
26 involved.

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

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

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

14 11. If any provision in this Agreement (with the exception of Section IV.5.) is
15 held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining
16 provisions will nevertheless continue in full force without being impaired or invalidated in any
17 way. Should it be held by a court of competent jurisdiction that any portion of Section IV.5. is
18 invalid, void, or unenforceable, the provisions of Government Code 65913.8(b) shall apply. It
19 shall, therefore, be determined that this fee is extended for a period of ten years, commencing
20 upon DISTRICT'S acceptance of DISTRICT DRAINAGE FACILITIES for ownership,
21 operation and maintenance.

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

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

3 RIVERSIDE COUNTY FLOOD CONTROL
4 AND WATER CONSERVATION DISTRICT
5 1995 Market Street
6 Riverside, CA 92501

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

5 BELLACAP, LLC
6 3470 Wilshire Boulevard
7 Los Angeles, CA 90010
8 Attn: Joseph Rivani

8 12. Any action at law or in equity brought by any of the parties hereto for the
9 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court of
10 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
11 waive all provisions of law providing for a change of venue in such proceedings to any other
12 county.
13

14 13. This Agreement is the result of negotiations between the parties hereto, and
15 the advice and assistance of their respective counsel. The fact that this Agreement was prepared
16 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty
17 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT
18 prepared this Agreement in its final form.
19

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

22 15. DEVELOPER shall not assign or otherwise transfer any of its rights, duties
23 or obligations hereunder to any person or entity without the written consent of the other parties
24 hereto being first obtained. In the event of any such transfer or assignment, DEVELOPER
25 expressly understands and agrees that it shall remain liable with respect to any and all of the
26 obligations and duties contained in this Agreement.
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16. The individual(s) executing this Agreement on behalf of DEVELOPER hereby certify that they have the authority within their respective company(ies) to enter into and execute this Agreement, and have been authorized to do so by any and all boards of directors, legal counsel, and or any other board, committee or other entity within their respective company(ies) which have the authority to authorize or deny entering this Agreement.

17. 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.

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

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(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

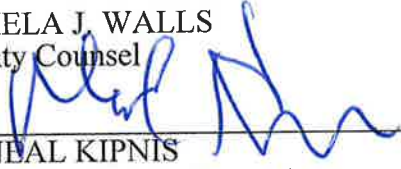
RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By 
WARREN D. WILLIAMS
General Manager-Chief Engineer

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

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel
By 
NEAL KIPNIS
Deputy County Counsel

KECIA HARPER-IHEM
Clerk of the Board
By _____
Deputy
(SEAL)

RECOMMENDED FOR APPROVAL:


COUNTY OF RIVERSIDE

By 
JUAN C. PEREZ
Director of Transportation

By _____
JOHN F. TAVAGLIONE, Chairman
County of Riverside Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel
By  4/18/12
MARSHA L. VICTOR
Principal Deputy County Counsel

KECIA HARPER-IHEM
Clerk of the Board
By _____
Deputy
(SEAL)

Cooperative Agreement: Warm Springs Valley - French Creek Channel
4/23/12
KEC:blj

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BELLACAP, LLC
a California limited liability company

By 
JOSEPH RIVANI
President

(ATTACH NOTARY WITH
CAPACITY STATEMENT)

Cooperative Agreement: Warm Springs Valley - French Creek Channel
4/23/12
KEC:blj

State of California

County of Los Angeles

On May 23, 2012 before me, Samantha Kang, a notary public, personally appeared

JOSEPH RIVANI

who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Samantha Kang (seal)



Exhibit A

Description of the Property

Real property in the unincorporated areas of the County of Riverside, State of California, described as follows:

CAPISTRANO PROPERTY.

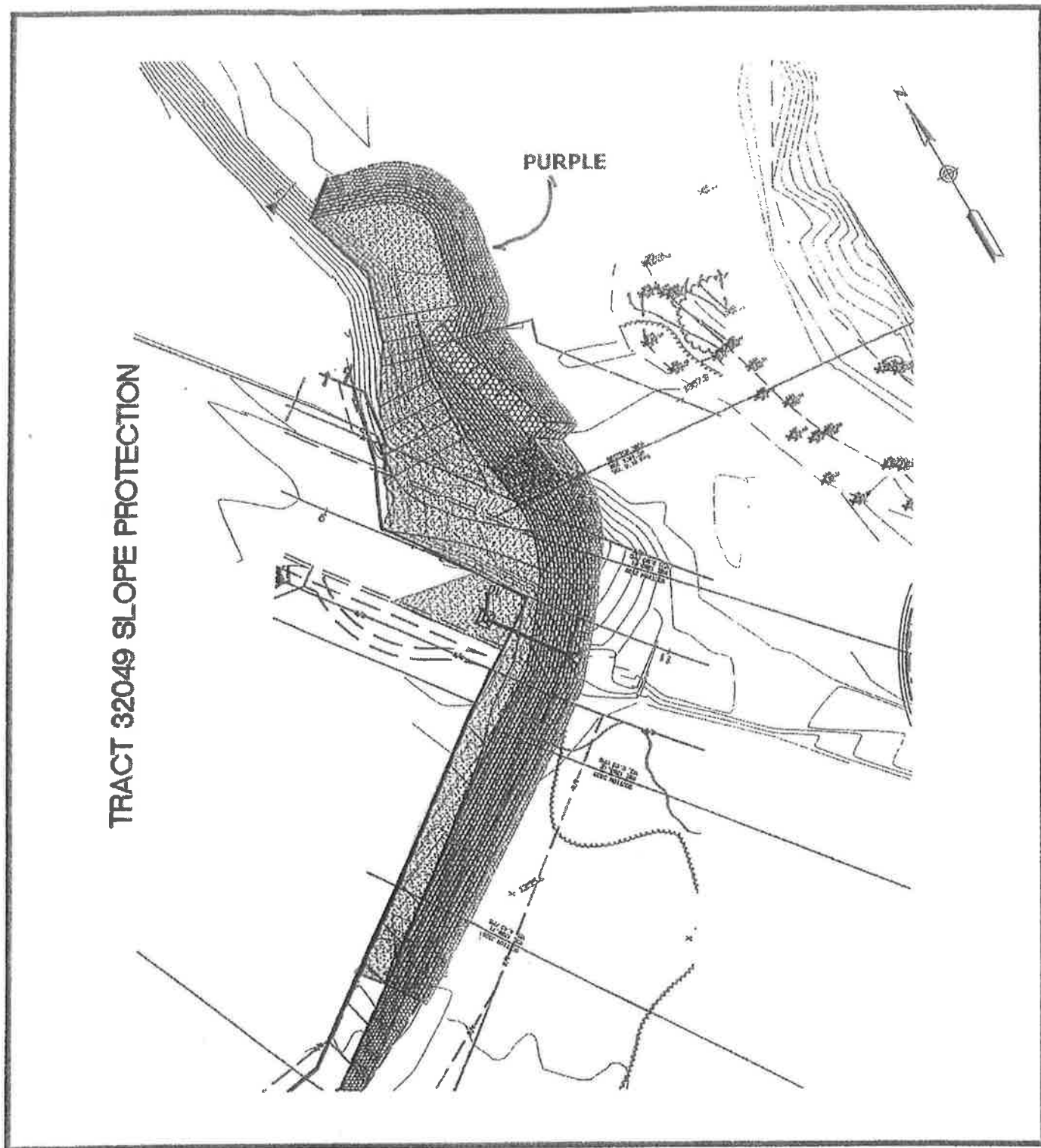
PARCEL 1: (APN'S: 480-260-3 THROUGH 480-260-016-7, 480-550-001-9 THROUGH 480-550-039-4 AND 480-551-001-2 THROUGH 480-551-013-3)

LOTS 11 THROUGH 64, INCLUSIVE OF TRACT NO. 29114, AS SHOWN BY MAP ON FILE IN BOOK 418, PAGES 30 THROUGH 36 OF MAPS, RECORDS OF RIVERSIDE COUNTY.

PARCEL 2: (APN'S: 480-281-012-8, 480-281-013-9 AND 480-281-019-5 THROUGH 480-281-022-7)

LOTS 13, 14 AND 20 THROUGH 23, INCLUSIVE OF TRACT NO. 29114-1, AS SHOWN BY MAP ON FILE IN BOOK 346, PAGES 36 THROUGH 43 OF MAPS, RECORDS OF RIVERSIDE COUNTY.

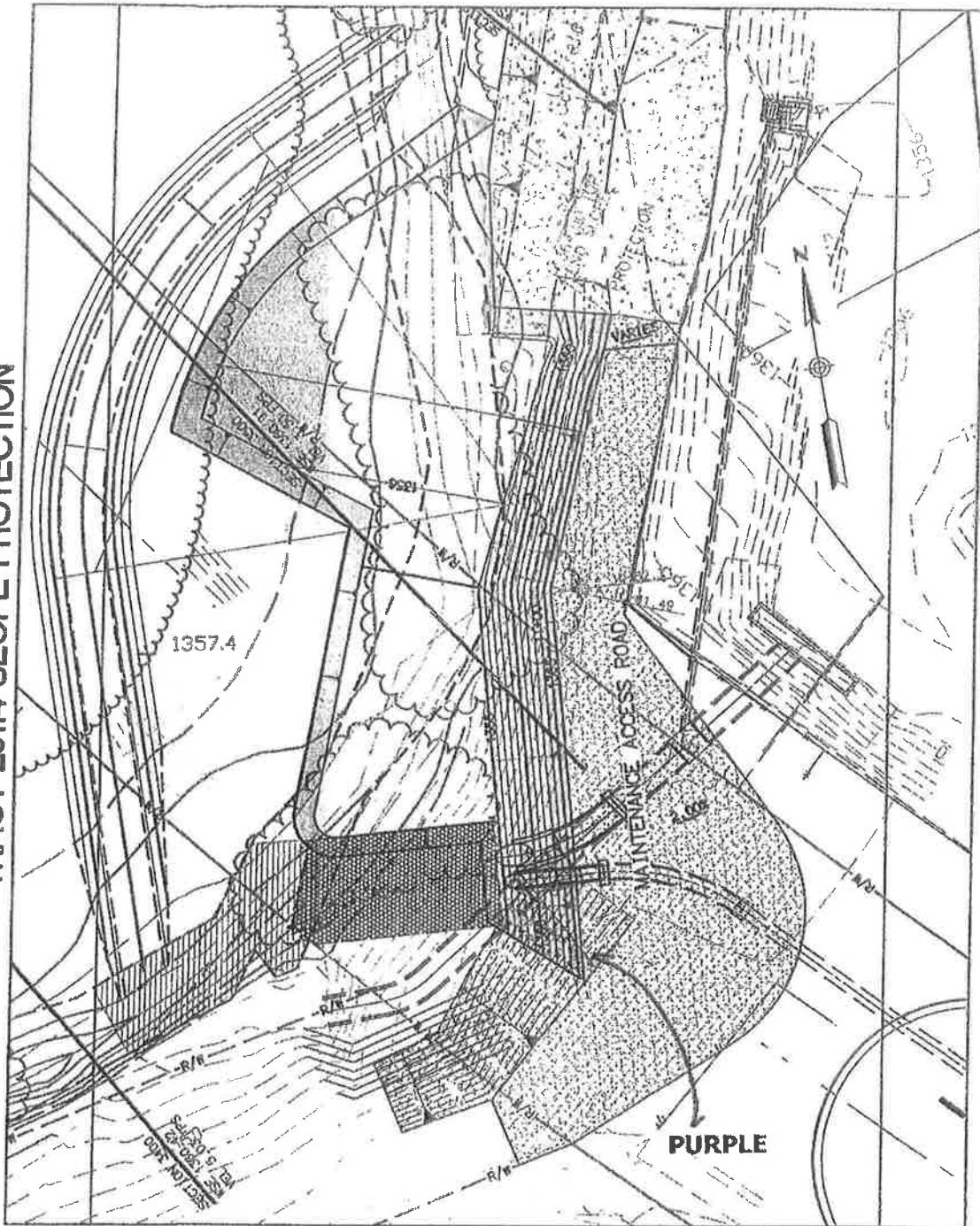
Exhibit B



Cooperative Agreement
Warm Springs Valley-French Creek Channel
Project No. 7-0-00205-05, Tract Nos. 29114, 32049

Exhibit B

TRACT 29114 SLOPE PROTECTION



Cooperative Agreement
Warm Springs Valley-French Creek Channel
Project No. 7-0-00205-05, Tract Nos. 29114, 32049