

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

705B



**FROM:** General Manager-Chief Engineer

**SUBMITTAL DATE:**  
December 17, 2013

**SUBJECT:** Cooperative Agreement for Eastvale MDP Line D  
Schleisman Road Storm Drain Lateral (Tract No. 34014)  
Project No. 2-0-00355; District 2/District 2 [\$0]

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

1. Approve the Cooperative Agreement between the District, the City of Eastvale (City) and D.R. Horton Los Angeles Holding Company, Inc. (Developer); and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

**BACKGROUND:**

**Summary**

The Cooperative Agreement sets forth the terms and conditions by which certain flood control facilities, required as a condition of approval for Tract No. 34014, are to be constructed by Developer and inspected, operated and maintained by the District and City.

Continued on Page 2

*Steve Thomas*  
FOR **WARREN D. WILLIAMS**  
General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	
<b>SOURCE OF FUNDS:</b> Developer is funding all construction and construction inspection costs.				<b>Budget Adjustment:</b> N/A	
				<b>For Fiscal Year:</b> N/A	

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

APPROVE  
BY: *Steven C. Horn*  
Steven C. Horn, MPA

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

DEC 18 11:13 AM '13  
RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Prev. Agn. Ref.:

District: 2<sup>nd</sup>/2<sup>nd</sup>

Agenda Number:

11-5

Departmental Concurrence  
FORM A PROJECT COUNTY COUNCIL  
BY: *Warren D. Williams* DATE: \_\_\_\_\_

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

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

**FORM 11:** Cooperative Agreement for Eastvale MDP Line D  
Schleisman Road Storm Drain Lateral (Tract No. 34014)  
Project No. 2-0-00355; District 2/District 2 [\$0]

**DATE:** December 17, 2013

**PAGE:** Page 2 of 2

**BACKGROUND:**

**Summary (continued)**

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the referenced drainage facilities. Upon completion of the facilities' construction, the District will assume ownership, operation and maintenance of the mainline storm drains that are greater than 36 inches in diameter. City will assume ownership and maintenance of lateral storm drain facilities that are 36 inches or less in diameter along with the associated appurtenances such as catch basins, connector pipes, etc., located within its right of way boundaries.

County Counsel has approved the Agreement as to legal form, and the City and the Developer have executed the Agreement.

**Impact on Citizens and Businesses**

Developer's planned development will benefit from the storm drain facilities that are to be constructed by the Developer.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

Future O&M costs associated with the mainline storm drains that are greater than 36-inches in diameter will accrue to the District.

TT:LMD:bjj

*Informational Copy Only*

156692

COOPERATIVE AGREEMENT  
Eastvale Master Drainage Plan Line D  
Schleisman Road Storm Drain Lateral  
Tract No. 34014  
Project No. 2-0-00355

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", the City of Eastvale, hereinafter called "CITY", and D.R. Horton Los Angeles Holding Company, Inc., a California corporation, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DEVELOPER has submitted for approval Tract No. 34014, located within the city of Eastvale. As a condition of approval for Tract No. 34014, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage improvements for DEVELOPER'S planned development; and

B. Legal descriptions of Tract No. 34014 are provided in Exhibit "A" attached hereto and made a part hereof; and

C. The required flood control facilities include approximately 275 lineal feet of 48" reinforced concrete pipe and 25 lineal feet of 3' by 4' reinforced concrete box located within street right of way, hereinafter called "SCHLEISMAN ROAD STORM DRAIN LATERAL", as shown in concept in blue on Exhibit "B" attached hereto and made a part hereof; and

D. At its downstream terminus, SCHLEISMAN ROAD STORM DRAIN LATERAL connects to DISTRICT'S existing Eastvale Master Drainage Plan Line D, Stage 2 project at approximate Station 41+72 per District As-built Drawing No. 2-0296 and as shown on Sheet 2 of District Drawing No. 2-0417; and

E. Also associated with the construction of SCHLEISMAN ROAD STORM DRAIN LATERAL is the construction of certain catch basins, inlets, connector pipes, and various lateral storm drains that are thirty-six inches (36") or less in diameter which are located within CITY held easements or rights of way, hereinafter called "CITY APPURTENANCES"; and

F. Together, SCHLEISMAN ROAD STORM DRAIN LATERAL and CITY APPURTENANCES are hereinafter called "PROJECT"; and

G. DEVELOPER has commenced construction of SCHLEISMAN ROAD STORM DRAIN LATERAL pursuant to a fully executed Right of Entry and Inspection Agreement between DISTRICT, CITY and DEVELOPER; and

H. DEVELOPER and CITY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of SCHLEISMAN ROAD STORM DRAIN LATERAL. Therefore, DISTRICT must review and approve PROJECT plans and specifications and subsequently inspect the construction of SCHLEISMAN ROAD STORM DRAIN LATERAL; and

I. DEVELOPER and DISTRICT desire CITY to accept ownership and responsibility for the operation and maintenance of CITY APPURTENANCES. Therefore, CITY must review and approve PROJECT plans and specifications and subsequently inspect the construction of CITY APPURTENANCES.

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

SECTION I

DEVELOPER shall:

1. Prepare PROJECT plans and specifications, hereinafter called "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards, and submit to DISTRICT and CITY 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. herein, 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 SCHLEISMAN ROAD STORM DRAIN LATERAL.

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

5. Secure, at its sole cost and expense, all necessary licenses, agreements, permits, approvals, rights of way, rights of entry and temporary construction easements 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, approvals, rights of way, rights of entry and temporary construction easements as determined and approved by DISTRICT.

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

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

8. Notify DISTRICT in writing (Attention: Administrative Services Section) at least twenty (20) days prior to the start of construction of PROJECT. Construction shall not begin on any element of PROJECT, for any reason whatsoever, until DISTRICT has issued to

DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence construction of PROJECT.

9. [This Section Intentionally Left Blank.]

10. Obtain and provide DISTRICT (Attention: Right of Way Acquisition Section), at the time of providing written notice to DISTRICT of the start of construction as set forth in Section I.8., with duly executed Irrevocable Offers(s) of Dedication to the public for flood control and drainage purposes, including ingress and egress, for the rights of way deemed necessary by DISTRICT for the construction, inspection, operation and maintenance of SCHLEISMAN ROAD STORM DRAIN LATERAL, as shown in concept in blue on Exhibit "B". The Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and equitable owners of the property described in the offer(s).

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

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

13. Furnish DISTRICT, at the time of providing written notice to DISTRICT of the start of construction as set forth in Section I.8., a construction schedule which shall show the order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to

carry on the various parts of work, including estimated start and completion dates. As construction of PROJECT progresses, DEVELOPER shall update said construction schedule as requested by DISTRICT.

14. Furnish DISTRICT with final mylar plans for SCHLEISMAN ROAD STORM DRAIN LATERAL and assign their ownership to DISTRICT prior to the start of PROJECT construction.

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

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

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

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



19. Commencing on the date notice is given pursuant to Section I.8. and continuing until DISTRICT accepts SCHLEISMAN ROAD STORM DRAIN LATERAL and CITY accepts CITY APPURTENANCES for operation and maintenance:

- (a) Provide and maintain or cause its contractor(s) to provide and maintain comprehensive liability insurance coverage which shall protect DEVELOPER from claim from damages for personal injury, including accidental and wrongful death, as well as from claims for property damage which may arise from DEVELOPER'S construction of PROJECT or the performance of its obligations hereunder, whether such construction or performance be by DEVELOPER, by any of its contractors, subcontractors, or by anyone employed directly or indirectly by any of them. Such insurance shall name DISTRICT, County of Riverside and CITY as additional insureds with respect to this Agreement and the obligations of DEVELOPER hereunder. Such insurance shall provide for limits of not less than two million dollars (\$2,000,000) per occurrence.
- (b) Cause its insurance carrier(s) or its contractor's insurance carrier(s), who shall be authorized by the California Department of Insurance to transact the business of insurance in the State of California, to furnish DISTRICT and CITY at the time of providing written notice to DISTRICT of the start of construction as set forth in Section I.8., with certificate(s) of insurance and applicable policy endorsements showing that such insurance is in full force and effect

and that DISTRICT, County of Riverside and CITY are 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 CITY sixty (60) 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 provide written notice to DEVELOPER that DISTRICT is unable to perform its obligations hereunder, nor to accept responsibility for ownership, operation and maintenance of SCHLEISMAN ROAD STORM DRAIN LATERAL due, either in whole or in part, to said breach of this Agreement.

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

21. Within two (2) weeks of completing PROJECT construction, provide DISTRICT (Attention: Contract Administration Section) and CITY with written notice that PROJECT construction is substantially complete and request that DISTRICT conduct a final inspection of PROJECT and CITY conduct a final inspection of CITY APPURTENANCES.

22. Upon completion of PROJECT construction, and upon acceptance by CITY of all street rights of way deemed necessary by DISTRICT and CITY for the operation and maintenance of PROJECT, but prior to DISTRICT acceptance of SCHLEISMAN ROAD STORM DRAIN LATERAL for ownership, operation and maintenance, convey, or cause to be conveyed to DISTRICT the flood control easement(s), including ingress and egress, in a form approved by DISTRICT, for the rights of way as deemed necessary solely by the DISTRICT.

23. At the time of recordation of the conveyance document(s), as set forth in Section I.22., furnish DISTRICT with policies of title insurance, each in the amount of not less than fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said property as being free and clear of all liens, encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are deemed acceptable.

24. 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 SCHLEISMAN ROAD STORM DRAIN LATERAL and CITY accepts ownership and responsibility for operation and maintenance of CITY APPURTENANCES.

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

26. Upon completion of PROJECT construction, but prior to DISTRICT acceptance of SCHLEISMAN ROAD STORM DRAIN LATERAL for ownership, operation and maintenance, provide or cause its civil engineer of record or construction civil engineer of record, duly registered in the State of California, to provide DISTRICT with a redlined "record drawings" copy of engineering plans for SCHLEISMAN ROAD STORM DRAIN LATERAL. After DISTRICT approval of the redlined "record drawings", DEVELOPER'S engineer shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT'S original mylars at DISTRICT'S office, after which the DEVELOPER'S engineer shall review, stamp and sign the original SCHLEISMAN ROAD STORM DRAIN LATERAL engineering plans "record drawings".

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

## SECTION II

DISTRICT shall:

1. Review and approve IMPROVEMENT PLANS prior to the start of PROJECT construction.
2. Provide CITY an opportunity to review and approve IMPROVEMENT PLANS prior to DISTRICT'S final approval.
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. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication, or easement(s) provided by DEVELOPER pursuant to Sections I.10 and I.22.

5. Inspect construction of PROJECT.

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. [This Section Intentionally Left Blank.]

8. Keep an accurate accounting of all DISTRICT construction inspection costs, and within forty-five (45) days after DISTRICT acceptance of SCHLEISMAN ROAD STORM DRAIN LATERAL 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 SCHLEISMAN ROAD STORM DRAIN LATERAL 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 amount(s), as deemed reasonably necessary by DISTRICT to complete inspection of SCHLEISMAN ROAD STORM DRAIN LATERAL, within thirty (30) days after receipt of billing from DISTRICT.

9. Accept ownership and sole responsibility for the operation and maintenance of SCHLEISMAN ROAD STORM DRAIN LATERAL upon (i) DISTRICT inspection of SCHLEISMAN ROAD STORM DRAIN LATERAL in accordance with Section I.21., (ii) DISTRICT acceptance of SCHLEISMAN ROAD STORM DRAIN LATERAL construction as being complete, (iii) CITY acceptance of CITY APPURTENANCES construction as being complete, (iv) DISTRICT receipt of stamped and signed "record drawings" of SCHLEISMAN ROAD STORM DRAIN LATERAL plans, as set forth in

Section I.26., (v) recordation of all conveyance documents described in Section I.22., (vi) acceptance by CITY of all necessary street rights of way as deemed necessary by DISTRICT and CITY for the operation and maintenance of PROJECT, (vii) CITY acceptance of CITY APPURTENANCES for ownership, operation and maintenance, and (viii) DISTRICT'S sole determination that SCHLEISMAN ROAD STORM DRAIN LATERAL is in a satisfactorily maintained condition.

10. Provide CITY with reproducible duplicate copies of "record drawings" of SCHLEISMAN ROAD STORM DRAIN LATERAL plans upon CITY acceptance of CITY APPURTENANCES for ownership, operation and maintenance.

### SECTION III

CITY shall:

1. Review and approve IMPROVEMENT PLANS prior to the start of PROJECT construction.
2. Accept CITY and DISTRICT approved faithful performance and payment bonds submitted by DEVELOPER, as set forth in Section I.7., and hold said bonds as provided herein.
3. Inspect construction of PROJECT.
4. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.
5. 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, inspection, operation and maintenance of SCHLEISMAN ROAD STORM DRAIN LATERAL.

6. Grant DISTRICT, by execution of this Agreement, the right to construct, inspect, operate, and maintain SCHLEISMAN ROAD STORM DRAIN LATERAL within CITY rights of way.

7. Accept ownership and sole responsibility for the operation and maintenance of CITY APPURTENANCES upon DISTRICT acceptance of SCHLEISMAN ROAD STORM DRAIN LATERAL as being complete.

8. Not grant any occupancy permits for any units within any portion of Tract No. 34014, or any phase thereof, until construction of PROJECT is complete, unless otherwise approved in writing by DISTRICT.

9. [This Section Intentionally Left Blank.]

10. Upon DISTRICT acceptance of SCHLEISMAN ROAD STORM DRAIN LATERAL construction as being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and covers located within CITY rights of way which must be performed at such time(s) that the finished grade along and above the underground portions of SCHLEISMAN ROAD STORM DRAIN LATERAL are improved, repaired, replaced or changed. It being further understood and agreed that any such adjustments shall be performed at no cost to DISTRICT.

#### SECTION IV

It is further mutually agreed:

1. Prior to DISTRICT'S acceptance of ownership and responsibility for the operation and maintenance of SCHLEISMAN ROAD STORM DRAIN LATERAL, SCHLEISMAN ROAD STORM DRAIN LATERAL shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, subsequent to the inspection and, in the sole

discretion of DISTRICT, SCHLEISMAN ROAD STORM DRAIN LATERAL is not in an acceptable condition, corrections will be made at the sole expense of DEVELOPER.

2. All work involved with SCHLEISMAN ROAD STORM DRAIN LATERAL shall be inspected by DISTRICT and shall not be deemed complete until approved and accepted in writing as complete by DISTRICT.

3. CITY and DEVELOPER personnel may observe and inspect all work being done on SCHLEISMAN ROAD STORM DRAIN LATERAL, but shall provide any comments to DISTRICT personnel who shall be solely responsible for all quality control communications with DEVELOPER'S contractor(s) during the construction of PROJECT.

4. DEVELOPER shall complete construction of SCHLEISMAN ROAD STORM DRAIN LATERAL within twelve (12) consecutive months after execution of this Agreement and within fifty (50) consecutive calendar days after commencing work on SCHLEISMAN ROAD STORM DRAIN LATERAL. It is expressly understood that since time is of the essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon time shall constitute authority for DISTRICT to perform the remaining work and require DEVELOPER'S surety to pay to CITY the penal sum of any and all bonds. In which case, CITY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.

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

In the event DEVELOPER wishes to expedite issuance of a Notice to Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate



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

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

7. DEVELOPER shall indemnify and hold harmless DISTRICT, County of Riverside and CITY (including their agencies, districts, special districts and departments, their

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

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

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

DEVELOPER'S indemnification obligations shall be satisfied when DEVELOPER has provided to DISTRICT, County of Riverside and CITY the appropriate form of dismissal (or similar document) relieving DISTRICT, County of Riverside or CITY from any liability for the claim, proceeding or action involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT, County of Riverside and CITY from third party claims.

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

8. DEVELOPER shall not request DISTRICT to accept any portion or portions of PROJECT or CITY to accept any portion or portions of CITY APPURTENANCES prior to the completion of PROJECT construction.

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

10. This Agreement is to be construed in accordance with the laws of the State of California. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

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

RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
1995 Market Street  
Riverside, CA 92501  
Attn: Administrative Services Section

CITY OF EASTVALE  
12363 Limonite Ave. Suite 910  
Eastvale, CA 91752

D.R. HORTON LOS ANGELES HOLDING COMPANY, INC.  
2280 Wardlow Circle, Suite 100  
Irvine, CA 92606  
Attn: Barbara Murakami

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

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

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

15. DEVELOPER shall not assign or otherwise transfer any of its rights, duties or obligations hereunder to any person or entity without the written consent of the other parties hereto being first obtained. In the event of any such transfer or assignment,

DEVELOPER expressly understands and agrees that it shall remain liable with respect to any and all of the obligations and duties contained in this Agreement.

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

\_\_\_\_\_  
(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 ~~\_\_\_\_\_~~ *Not Executed*  
MARION ASHLEY, Chairman  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

APPROVED AS TO FORM:  
  
PAMELA J. WALLS  
County Counsel

ATTEST:  
  
KECIA HARPER-IHEM  
Clerk of the Board

By \_\_\_\_\_  
NEAL KIPNIS  
Deputy County Counsel

By \_\_\_\_\_  
Deputy  
  
(SEAL)

Cooperative Agreement  
Eastvale MDP Line D – Schleisman Road Storm Drain Lateral  
Project No. 2-0-00355  
11/05/2013

RECOMMENDED FOR APPROVAL:      **CITY OF EASTVALE**

By \_\_\_\_\_  
GEORGE ALVAREZ  
City Engineer

By \_\_\_\_\_  
IKE BOOTSMA  
Mayor

APPROVED AS TO FORM:

ATTEST:

By \_\_\_\_\_  
JOHN CAVANAUGH  
City Attorney

By \_\_\_\_\_  
CAROL JACOBS  
City Manager

(SEAL)

**D.R. HORTON LOS ANGELES  
HOLDING COMPANY, INC.,**  
a California corporation

By: \_\_\_\_\_  
Barbara Murakami  
Vice President, Forward Planning

(ATTACH NOTARY WITH CAPACITY STATEMENT)

Cooperative Agreement  
Eastvale MDP Line D – Schleisman Road Storm Drain Lateral  
Project No. 2-0-00355  
11/05/2013



# Exhibit A

## **LEGAL DESCRIPTION**

Real property in the City of Eastvale, County of Riverside, State of California, described as follows:

**PARCEL A:**

LOTS 49 AND 50 OF KINGSTON TRACT, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 12, PAGE(S) 6, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, TOGETHER WITH THE NORTH HALF OF VACATED ORANGE AVENUE LYING SOUTHERLY AND ADJACENT TO SAID LOTS, A VACATED BY ORDER RECORDED 12/4/1928 IN BOOK 789, PAGE(S) 560, OF DEEDS, RECORDS OF RIVERSIDE COUNTY.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE COUNTY OF RIVERSIDE BY DEED RECORDED APRIL 12, 1932 IN BOOK 72, PAGE 351 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY.

**ALSO EXCEPTING THEREFROM:**

A. ANY AND ALL (I) OIL RIGHTS, (II) MINERAL RIGHTS, (III) NATURAL GAS RIGHTS, (IV) RIGHTS TO ALL OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, (V) GEOTHERMAL HEAT RIGHTS OR GEOTHERMAL SUBSTANCES THAT MAY BE PRODUCED FROM THE PROPERTY, (VI) WATER RIGHTS AND CLAIMS OR RIGHTS TO WATER AND (VII) ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING (COLLECTIVELY, "SUBSURFACE RESOURCES") LOCATED IN OR UNDER THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN (THE "PROPERTY"), TO THE EXTENT SUCH SUBSURFACE RESOURCES HAVE NOT BEEN PREVIOUSLY RESERVED; AND

B. THE PERPETUAL RIGHT TO DRILL, MINE, EXPLORE AND OPERATE FOR AND PRODUCE, STORE AND REMOVE ANY OF THE SUBSURFACE RESOURCES ON OR FROM THE PROPERTY, INCLUDING WITHOUT LIMITATION THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE, FROM LANDS OTHER THAN THE PROPERTY, WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE PROPERTY, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS WITHIN OR BEYOND THE EXTERIOR LIMITS OF THE PROPERTY, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, BUT WITHOUT THE RIGHT TO DRILL, MINE, EXPLORE, OPERATE, PRODUCE, STORE OR REMOVE ANY OF THE SUBSURFACE RESOURCES THROUGH OR IN THE SURFACE OF THE PROPERTY OR THE UPPER FIVE HUNDRED (500) FEET OF THE SUBSURFACE OF THE PROPERTY.

AS CONVEYED TO DRH ENERGY, INC., A COLORADO CORPORATION IN THE DEED RECORDED JUNE 26, 2013 AS INSTRUMENT NO. 2013-0305801 OF OFFICIAL RECORDS.

APN: 152-050-001-6

### COOPERATIVE AGREEMENT

Eastvale Master Drainage Plan Line D  
- Schleisman Road Storm Drain Lateral

Tract No. 34014

Project No. 2-0-00355

1 of 2

## Exhibit A

**PARCEL B:**

LOTS 59 AND 60 OF KINGSTON TRACT, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 12, PAGE(S) 6, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO, CALIFORNIA; TOGETHER WITH THE SOUTH HALF OF VACATED ORANGE AVENUE LYING NORTHERLY AND ADJACENT TO SAID LOTS AS VACATED BY ORDER OF THE BOARD OF SUPERVISORS, WAS RECORDED DECEMBER 4, 1928 AS INSTRUMENT NO. 143 IN BOOK 789, PAGE 560 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

**EXCEPTING THEREFROM:**

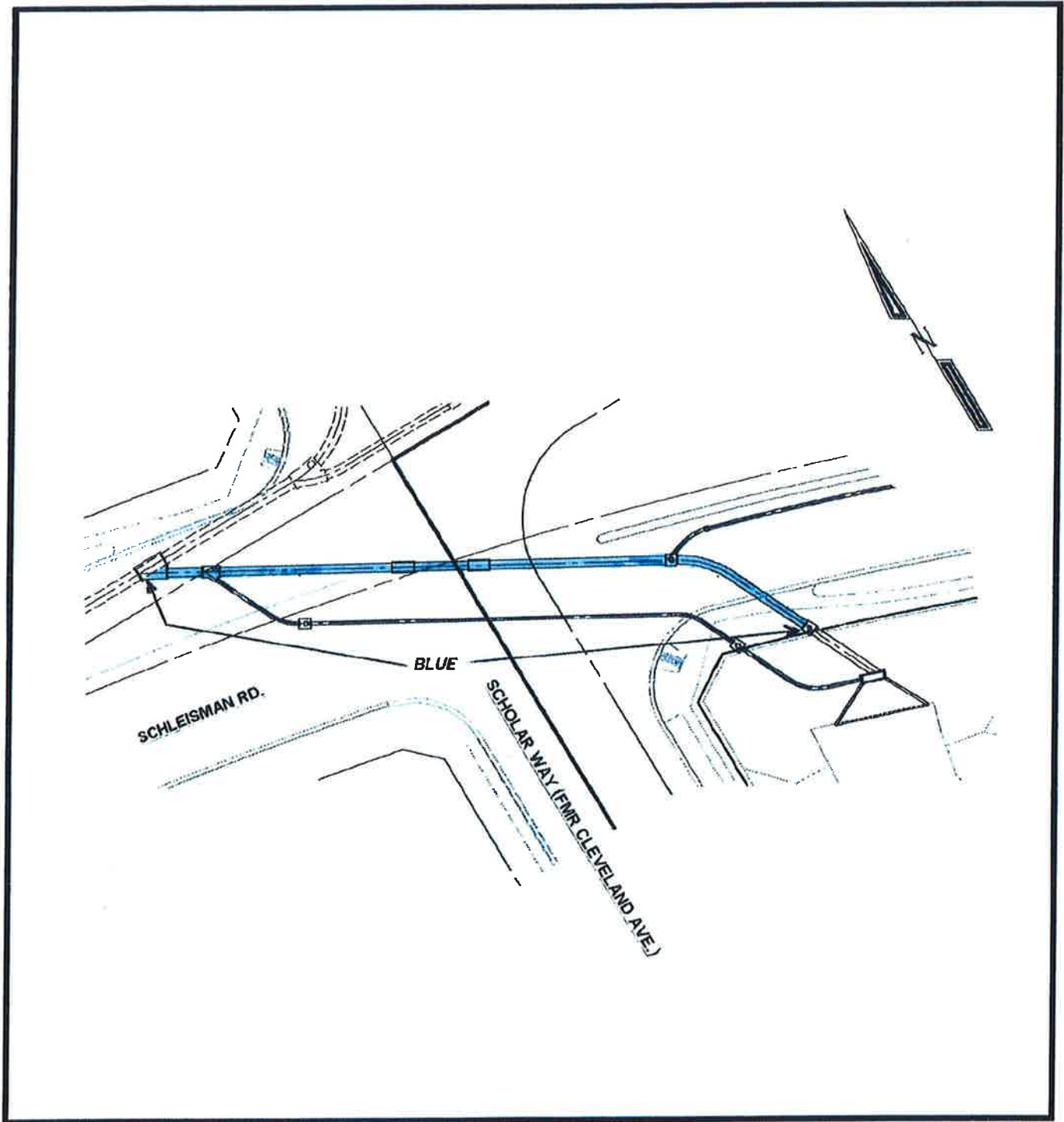
A. ANY AND ALL (I) OIL RIGHTS, (II) MINERAL RIGHTS, (III) NATURAL GAS RIGHTS, (IV) RIGHTS TO ALL OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, (V) GEOTHERMAL HEAT RIGHTS OR GEOTHERMAL SUBSTANCES THAT MAY BE PRODUCED FROM THE PROPERTY, (VI) WATER RIGHTS AND CLAIMS OR RIGHTS TO WATER AND (VII) ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING (COLLECTIVELY, "SUBSURFACE RESOURCES") LOCATED IN OR UNDER THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN (THE "PROPERTY"), TO THE EXTENT SUCH SUBSURFACE RESOURCES HAVE NOT BEEN PREVIOUSLY RESERVED; AND

B. THE PERPETUAL RIGHT TO DRILL, MINE, EXPLORE AND OPERATE FOR AND PRODUCE, STORE AND REMOVE ANY OF THE SUBSURFACE RESOURCES ON OR FROM THE PROPERTY, INCLUDING WITHOUT LIMITATION THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE, FROM LANDS OTHER THAN THE PROPERTY, WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE PROPERTY, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS WITHIN OR BEYOND THE EXTERIOR LIMITS OF THE PROPERTY, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, BUT WITHOUT THE RIGHT TO DRILL, MINE, EXPLORE, OPERATE, PRODUCE, STORE OR REMOVE ANY OF THE SUBSURFACE RESOURCES THROUGH OR IN THE SURFACE OF THE PROPERTY OR THE UPPER FIVE HUNDRED (500) FEET OF THE SUBSURFACE OF THE PROPERTY.

AS CONVEYED TO DRH ENERGY, INC., A COLORADO CORPORATION IN THE DEED RECORDED JUNE 26, 2013 AS INSTRUMENT NO. 2013-0305801 OF OFFICIAL RECORDS.

APN: 152-050-007-2

# Exhibit B



COOPERATIVE AGREEMENT  
Eastvale Master Drainage Plan Line D  
- Schleisman Road Storm Drain Lateral  
Tract No. 34014  
Project No. 2-0-00355  
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