

FORM APPROVED COUNTY COUNSEL  
 BY: GREGORY P. PRIAMOS DATE: 5/19/16

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

205 B



**FROM:** General Manager-Chief Engineer

**SUBMITTAL DATE:**  
 July 26, 2016

**SUBJECT:** Approval of Cooperative Agreement for Winchester Hills Line 3, Stage 1 (Tract No. 31632),  
 Project No. 4-0-00577; District 3 [N/A]

- RECOMMENDED MOTION:** That the Board of Supervisors:
1. Approve the Cooperative Agreement between the District, the County of Riverside (County) and SR Conestoga, LLC (Developer); and
  2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

**BACKGROUND:**  
Summary

The Cooperative Agreement (Agreement) sets forth the terms and conditions by which certain flood control facilities, required as a condition of approval for Tract No. 31632, are to be constructed by Developer and inspected, operated and maintained by the District, County, and Developer.

Continued on Page 2

Departmental Concurrence

AMR:blm  
 P8/204608

*Mark H. Wills*  
 \_\_\_\_\_  
 for JASON E. UHLEY  
 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>				Budget Adjustment: No	
				For Fiscal Year: N/A	

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

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

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

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

Prev. Agn. Ref.: | District: 3rd | Agenda Number:

**11-4**

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

**FORM 11:** Approval of Cooperative Agreement for Winchester Hills Line 3, Stage 1 (Tract No. 31632),  
Project No. 4-0-00577; District 3 [\$N/A]

**DATE:** July 26, 2016

**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, and subsequent operation and maintenance of the referenced storm drain facilities.

Upon completion of construction, the District will assume ownership and responsibility for the operation and maintenance of the mainline storm drain system, riprap outlet structure and a maintenance access road. The County will assume ownership and responsibility for the operation and maintenance of the project's associated catch basins, outlets, inlets, emergency spillway, curb and gutter, and connector pipes and laterals that are 36 inches or less in diameter located within County rights of way.

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

**Impact on Residents and Businesses**

As noted above, construction of these drainage improvements is a requirement for the development of Tract No. 31632. The principal beneficiaries are the future residents of the tract. Ancillary benefits will accrue to the public who will utilize the tract's roadways.

**SUPPLEMENTAL:**

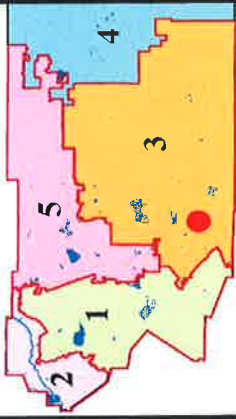
**Additional Fiscal Information**

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs of the District maintained storm drain facilities will accrue to the District.

**ATTACHMENTS:**

1. Vicinity Map
2. Cooperative Agreement

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P8/204608



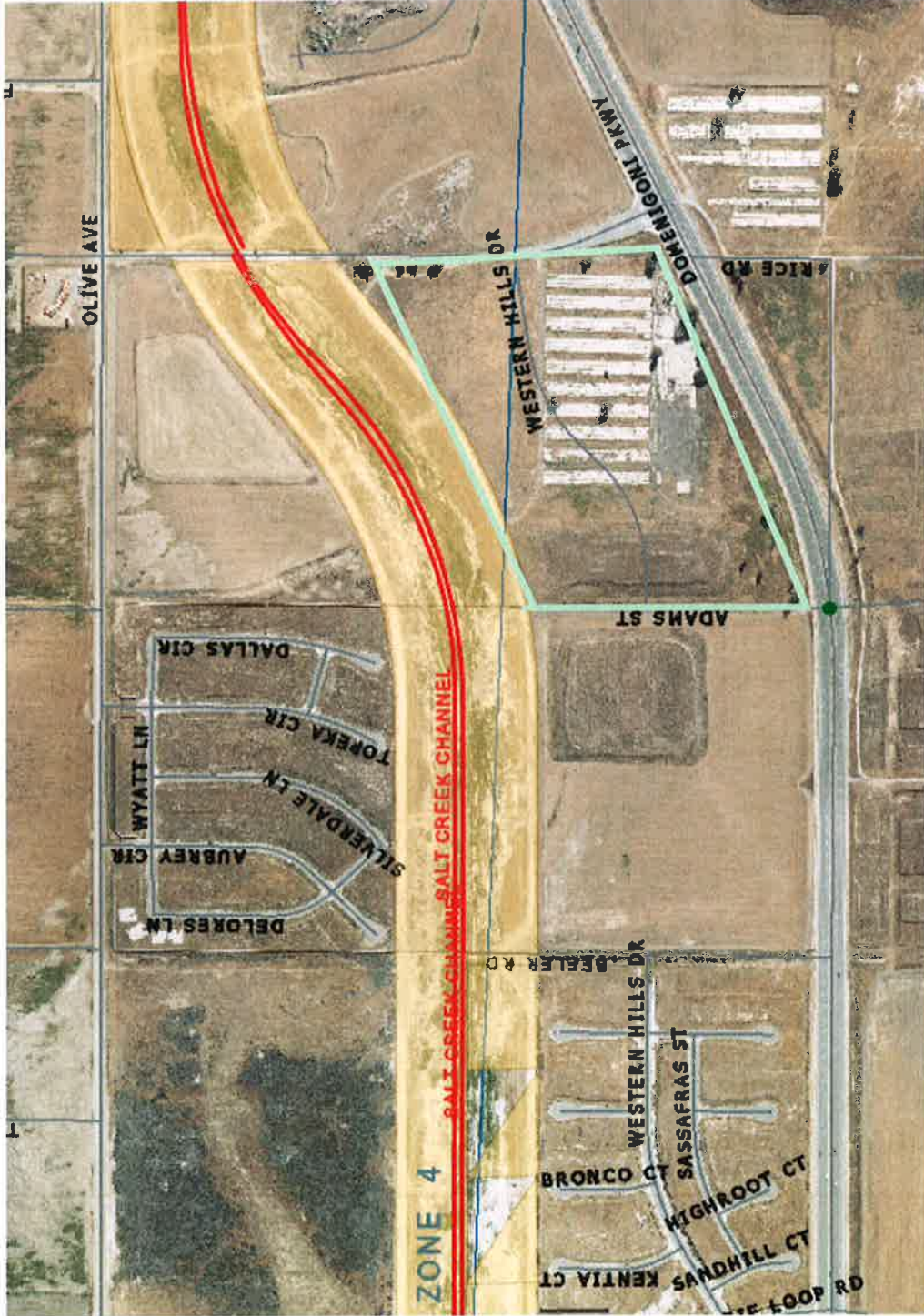
Supervisor Districts

**LEGEND:**

- Project Vicinity
- Supervisorial District

**DESCRIPTION:**

Winchester Hills - Line 3, Stage 1  
 Tract No. 31632



COOPERATIVE AGREEMENT  
Winchester Hills Line 3, Stage 1  
Project No. 4-0-00577  
Tract No. 31632

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", the County of Riverside, hereinafter called "COUNTY", and SR Conestoga, LLC, a Delaware limited liability company, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property, including Tract No. 31632, located within the County of Riverside. DEVELOPER has submitted for approval Tract No. 31632 located in an unincorporated area of western Riverside County. As a condition of approval for Tract No. 31632, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER'S planned development; and

B. The legal description of Tract No. 31632 is provided in Exhibit "A" attached hereto and made a part hereof; and

C. The required flood control facilities and drainage improvements, all as shown on District Drawing No. 4-0902, include construction of (i) approximately 1,043 lineal feet of 8' x 5' reinforced concrete box, riprap outlet structure and maintenance access road; hereinafter called "LINE 3"; and (ii) approximately 90 lineal feet of 42-inch reinforced concrete pipe and a riprap outlet structure, hereinafter called "LINE B", as shown in concept in red on Exhibit "B", attached hereto and made a part hereof. At its upstream terminus, LINE 3 will connect to COUNTY'S existing road culvert. At its downstream terminus, LINE 3 will connect to DISTRICT'S existing facility which drains into DISTRICT'S Salt Creek Channel. At its

1 downstream terminus, LINE B will drain into DISTRICT'S Salt Creek Channel. Together, LINE  
2 3 and LINE B are hereinafter called "DISTRICT FACILITIES"; and

3 D. Associated with the construction of DISTRICT FACILITIES is the  
4 construction of (i) certain catch basins, inlets, outlets, emergency spillway, connector pipes, curbs  
5 and gutters, and various lateral storm drains that are thirty-six inches (36") or less in diameter  
6 that are located within COUNTY held easements or rights of way, hereinafter called  
7 "APPURTENANCES"; and  
8

9 E. Together, DISTRICT FACILITIES and APPURTENANCES are  
10 hereinafter called "PROJECT"; and

11 F. DEVELOPER and COUNTY desire DISTRICT to accept ownership and  
12 responsibility for the operation and maintenance of DISTRICT FACILITIES. Therefore,  
13 DISTRICT must review and approve DEVELOPER'S plans and specifications for PROJECT  
14 and subsequently inspect the construction of DISTRICT FACILITIES; and  
15

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

21 H. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and  
22 specifications for PROJECT, (ii) inspect the construction of DISTRICT FACILITIES, and (iii)  
23 accept ownership and responsibility for the operation and maintenance of DISTRICT  
24 FACILITIES, provided DEVELOPER (a) complies with this Agreement, (b) constructs  
25 PROJECT in accordance with DISTRICT and COUNTY approved plans and specifications, (c)  
26 obtains and conveys to DISTRICT all rights of way necessary for the inspection, operation and  
27 maintenance of DISTRICT FACILITIES as set forth herein, and (d) accepts ownership and  
28



1 responsibility for the operation and maintenance of PROJECT following completion of  
 2 PROJECT construction until such time as DISTRICT accepts ownership and responsibility for  
 3 the operation and maintenance of DISTRICT FACILITIES; and

4 I. COUNTY is willing to (i) review and approve DEVELOPER'S plans and  
 5 specifications for PROJECT, (ii) inspect the construction of PROJECT, (iii) accept and hold  
 6 faithful performance and payment bonds submitted by DEVELOPER for DISTRICT  
 7 FACILITIES, (iv) grant DISTRICT the right to inspect, operate and maintain DISTRICT  
 8 FACILITIES within COUNTY rights of way, and (v) accept ownership and responsibility for  
 9 the operation and maintenance of APPURTENANCES, provided PROJECT is constructed in  
 10 accordance with plans and specifications approved by DISTRICT and COUNTY.  
 11

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

13 SECTION I

14 DEVELOPER shall:

15 1. Prepare PROJECT plans and specifications, hereinafter called  
 16 "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and COUNTY  
 17 standards, and submit to DISTRICT and COUNTY for their respective review and approval.  
 18

19 2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic  
 20 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by  
 21 DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT PLANS,  
 22 review and approval of rights of way and conveyance documents, and with the processing and  
 23 administration of this Cooperative Agreement.  
 24

25 3. Deposit with DISTRICT (Attention: Business Office – Accounts  
 26 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT  
 27 construction as set forth in Section I.8. herein, the estimated cost of providing construction  
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1 inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT  
2 in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any  
3 amendments thereto, based upon the bonded value of DISTRICT FACILITIES. If at any time  
4 the costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit with  
5 DISTRICT, DEVELOPER shall pay such additional amount(s), as deemed reasonably necessary  
6 by DISTRICT to complete inspection of DISTRICT FACILITIES, within thirty (30) days after  
7 receipt of billing from DISTRICT.  
8

9           4. Grant DISTRICT and COUNTY, by execution of this Cooperative  
10 Agreement, the right to enter upon DEVELOPER'S property where necessary and convenient for  
11 the purpose of gaining access to, and performing inspection service for, the construction of  
12 PROJECT as set forth herein.  
13

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 FACILITIES. DEVELOPER shall furnish DISTRICT, at the time  
17 of providing written notice to DISTRICT of the start of construction as set forth in Section I.8.,  
18 or not less than twenty (20) days prior to recordation of the final map for Tract No. 31632 or any  
19 phase thereof, whichever occurs first, with sufficient evidence of DEVELOPER having secured  
20 such necessary licenses, agreements, permits and rights of entry, as determined and approved by  
21 DISTRICT.  
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23           6. Prior to commencing construction, furnish DISTRICT with copies of all  
24 permits, approvals or agreements required by any federal, state or local resource and/or  
25 regulatory agency for the construction, operation and maintenance of DISTRICT FACILITIES.  
26 Such documents include but are not limited to those issued by the U.S. Army Corps of Engineers,  
27 California Regional Water Quality Control Board, California State Department of Fish and  
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1 Wildlife, State Water Resources Control Board, and Western Riverside County Regional  
2 Conservation Authority.

3           7. Provide COUNTY, at the time of providing written notice to DISTRICT of  
4 the start of construction as set forth in Section I.8. or not less than twenty (20) days prior to  
5 recordation of the final map for Tract No. 31632 or any phase thereof, whichever occurs first,  
6 with faithful performance and payment bonds, each in the amount of one hundred percent (100%)  
7 of the estimated cost for construction of DISTRICT FACILITIES as determined by DISTRICT.  
8 The surety, amount and form of the bonds, shall be subject to approval of DISTRICT and  
9 COUNTY. The bonds shall remain in full force and effect until DISTRICT FACILITIES are  
10 accepted by DISTRICT as complete; at which time the bond amount may be reduced to five  
11 percent (5%) for a period of one (1) year to guarantee against any defective work, labor or  
12 materials.  
13

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

20           9. Obtain and provide DISTRICT, at the time of providing written notice to  
21 DISTRICT of the start of construction of PROJECT as set forth in Section I.8. or not less than  
22 twenty (20) days prior to the recordation of the final map for Tract No. 31632 or any phase  
23 thereof, whichever occurs first, with duly executed Irrevocable Offers(s) of Dedication to the  
24 public for flood control and drainage purposes, including ingress and egress, for the rights of way  
25 deemed necessary by DISTRICT for the construction, inspection, operation and maintenance of  
26 DISTRICT FACILITIES. The Irrevocable Offer(s) of Dedication shall be in a form approved  
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1 by DISTRICT and shall be executed by all legal and equitable owners of the property described  
2 in the offer(s).

3           10.    Furnish DISTRICT, when submitting the Irrevocable Offer(s) of Dedication  
4 as set forth in Section I.9., with Preliminary Reports on Title dated not more than thirty (30) days  
5 prior to date of submission of all the property described in the Irrevocable Offer(s) of Dedication.  
6

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

13           12.    Furnish DISTRICT, at the time of providing written notice to DISTRICT of  
14 the start of construction as set forth in Section I.8., a construction schedule which shall show the  
15 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out the  
16 various parts of work, including estimated start and completion dates. As construction of  
17 DISTRICT FACILITIES progresses, DEVELOPER shall update said construction schedule as  
18 requested by DISTRICT.  
19

20           13.    Furnish DISTRICT with final mylar PROJECT plans and assign their  
21 ownership to DISTRICT prior to the start on any portion of PROJECT construction.

22           14.    Not permit any change to or modification of DISTRICT and COUNTY  
23 approved IMPROVEMENT PLANS without the prior written permission and consent of  
24 DISTRICT and COUNTY.

25           15.    Comply with all Cal/OSHA safety regulations including regulations  
26 concerning confined space and maintain a safe working environment for DEVELOPER,  
27 COUNTY and DISTRICT employees on the site.  
28

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

8           17.    DEVELOPER shall not commence operations until DISTRICT has been  
9 furnished with original certificate(s) of insurance and original certified copies of endorsements  
10 and if requested, certified original policies of insurance including all endorsements and any and  
11 all other attachments as required in this Section.

12                         Without limiting or diminishing DEVELOPER'S obligation to indemnify or  
13 hold DISTRICT harmless, DEVELOPER shall procure and maintain or cause to be maintained,  
14 at its sole cost and expense, the following insurance coverage's during the term of this  
15 Agreement:  
16

17                         A.   Workers' Compensation:

18                                 If DEVELOPER has employees as defined by the State of California,  
19 DEVELOPER shall maintain statutory Workers' Compensation  
20 Insurance (Coverage A) as prescribed by the laws of the State of  
21 California. Policy shall include Employers' Liability (Coverage B)  
22 including Occupational Disease with limits not less than \$1,000,000 per  
23 person per accident. Policy shall be endorsed to waive subrogation in  
24 favor of DISTRICT and COUNTY, and, if applicable, to provide a  
25 Borrowed Servant/Alternate Employer Endorsement.  
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1 B. Commercial General Liability:

2 Commercial General Liability insurance coverage, including but not  
3 limited to, premises liability, unmodified contractual liability, products  
4 and completed operations liability, personal and advertising injury, and  
5 cross liability coverage, covering claims which may arise from or out  
6 of DEVELOPER'S performance of its obligations hereunder. Policy  
7 shall name the Riverside County Flood Control and Water  
8 Conservation District and COUNTY, its agencies, districts, special  
9 districts, and departments, their respective directors, officers, Board of  
10 Supervisors, employees, elected or appointed officials, agents or  
11 representatives as additional insureds. Policy's limit of liability shall  
12 not be less than \$2,000,000 per occurrence combined single limit. If  
13 such insurance contains a general aggregate limit, it shall apply  
14 separately to this Agreement or be no less than two (2) times the  
15 occurrence limit.  
16

17  
18 C. Vehicle Liability:

19 If DEVELOPER'S vehicles or mobile equipment are used in the  
20 performance of the obligations under this Agreement, then  
21 DEVELOPER shall maintain liability insurance for all owned, non-  
22 owned or hired vehicles so used in an amount not less than \$1,000,000  
23 per occurrence combined single limit. If such insurance contains a  
24 general aggregate limit, it shall apply separately to this Agreement or  
25 be no less than two (2) times the occurrence limit. Policy shall name  
26 the Riverside County Flood Control and Water Conservation District  
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1 and COUNTY, its agencies, districts, special districts, and departments,  
2 their respective directors, officers, Board of Supervisors, employees,  
3 elected or appointed officials, agents or representatives as additional  
4 insureds.

5  
6 D. Professional Liability:

7 DEVELOPER shall maintain Professional Liability Insurance  
8 providing coverage for DEVELOPER'S performance of work included  
9 within this Agreement, with a limit of liability of not less than  
10 \$2,000,000 per occurrence and \$4,000,000 annual aggregate. If  
11 DEVELOPER'S Professional Liability Insurance is written on a claims  
12 made basis rather than an occurrence basis, such insurance shall  
13 continue through the term of this Agreement and DEVELOPER shall  
14 purchase at his sole expense either 1) an Extended Reporting  
15 Endorsement (also known as Tail Coverage); or 2) Prior Dates  
16 Coverage from a new insurer with a retroactive date back to the date of,  
17 or prior to, the inception of this Agreement; or 3) demonstrate through  
18 Certificates of Insurance that DEVELOPER has maintained continuous  
19 coverage with the same or original insurer. Coverage provided under  
20 items: 1), 2) or 3) will continue as long as the law allows.

21  
22  
23 E. General Insurance Provisions – All Lines:

- 24 i. Any insurance carrier providing insurance coverage hereunder  
25 shall be admitted to the State of California and have an A.M. BEST  
26 rating of not less than an A: VIII (A: 8) unless such requirements  
27 are waived, in writing, by the County Risk Manager. If the County  
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Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

ii. DEVELOPER must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention deemed unacceptable to DISTRICT, and at the election of the County Risk Manager, DEVELOPER'S carriers shall either: 1) reduce or eliminate such self-insured retention with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

iii. DEVELOPER shall cause their insurance carrier(s) to furnish DISTRICT with 1) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; and 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of sixty (60)

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days written notice shall be given to DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If DEVELOPER insurance carrier(s) policies does not meet the minimum notice requirement found herein, DEVELOPER shall cause DEVELOPER'S insurance carrier(s) to furnish a 60 day Notice of Cancellation Endorsement. In the event of a material modification, cancellation, expiration or reduction in coverage, this Agreement shall terminate forthwith, unless DISTRICT receives, prior to such effective date, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto, evidencing coverages set forth herein and the insurance required herein is in full force and effect. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.

- iv. It is understood and agreed by the parties hereto that DEVELOPER'S insurance shall be construed as primary insurance, and DISTRICT'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- v. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or there is a material change in the equipment to be used in the performance of



1 the scope of work which will add additional exposures (such as the  
2 use of aircraft, watercraft, cranes, etc.); or the term of this  
3 Agreement, including any extensions thereof, exceeds five (5)  
4 years, DISTRICT reserves the right to adjust the types of insurance  
5 required under this Agreement and the monetary limits of liability  
6 for the insurance coverages currently required herein, if, in the  
7 County Risk Manager's reasonable judgment, the amount or type  
8 of insurance carried by DEVELOPER has become inadequate.

9  
10 vi. DEVELOPER shall pass down the insurance obligations contained  
11 herein to all tiers of subcontractors working under this Agreement.

12 vii. The insurance requirements contained in this Agreement may be  
13 met with a program(s) of self-insurance acceptable to DISTRICT.

14  
15 viii. DEVELOPER agrees to notify DISTRICT of any claim by a third  
16 party or any incident or event that may give rise to a claim arising  
17 from the performance of this Agreement.

18 Failure to maintain the insurance required by this paragraph shall  
19 be deemed a material breach of this Agreement and shall authorize and constitute authority for  
20 DISTRICT, at its sole discretion, to provide written notice to DEVELOPER that DISTRICT is  
21 unable to perform its obligations hereunder, nor to accept responsibility for ownership, operation  
22 and maintenance of DISTRICT FACILITIES due, either in whole or in part, to said breach of  
23 this Agreement.  
24

25 18. Construct or cause to be constructed, PROJECT at DEVELOPER'S sole cost  
26 and expense, in accordance with DISTRICT and COUNTY approved IMPROVEMENT  
27 PLANS.  
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1           19. Within two (2) weeks of completing PROJECT construction, provide  
2 DISTRICT and COUNTY with written notice (Attention: Development Review Section) that  
3 PROJECT construction is substantially complete and requesting that DISTRICT conduct a final  
4 inspection of DISTRICT FACILITIES and COUNTY conduct a final inspection of PROJECT.  
5

6           20. Upon completion of PROJECT construction, and upon acceptance by  
7 COUNTY of all rights of way deemed necessary by DISTRICT and COUNTY for the operation  
8 and maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT FACILITIES  
9 for ownership, operation and maintenance, convey, or cause to be conveyed to DISTRICT (i) the  
10 flood control easement(s) including ingress and egress, in a form approved by DISTRICT.  
11

12           21. At the time of recordation of the conveyance document(s) as set forth in  
13 Section I.20., furnish DISTRICT with policies of title insurance, each in the amount of not less  
14 than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each  
15 easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the  
16 estimated value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT,  
17 guaranteeing DISTRICT'S interest in said property as being free and clear of all liens,  
18 encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), and except  
19 those which, in the sole discretion of DISTRICT, are acceptable.  
20

21           22. Accept ownership and sole responsibility for the operation and maintenance  
22 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation  
23 and maintenance of DISTRICT FACILITIES and COUNTY accepts ownership and  
24 responsibility for operation and maintenance of APPURTENANCES.  
25

26           23. Accept all liability whatsoever associated with the ownership, operation and  
27 maintenance of DISTRICT FACILITIES until such time as DISTRICT FACILITIES are  
28 formally accepted by DISTRICT for ownership, operation and maintenance.



1           3. Upon execution of this Cooperative Agreement, record or cause to be  
2 recorded, a copy of this Cooperative Agreement in the Official Records of the Riverside County  
3 Recorder.

4           4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication  
5 provided by DEVELOPER pursuant to Section I.9.

6           5. Inspect DISTRICT FACILITIES construction.

7           6. Keep an accurate accounting of all DISTRICT costs associated with the  
8 review and approval of IMPROVEMENT PLANS, the review and approval of right of way and  
9 conveyance documents, and the processing and administration of this Cooperative Agreement.

10           7. Keep an accurate accounting of all DISTRICT construction inspection costs,  
11 and within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITIES as being  
12 complete, submit a final cost statement to DEVELOPER. If the deposit, as set forth in Section  
13 I.3., exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within  
14 sixty (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.

15           8. Accept ownership and sole responsibility for the operation and maintenance  
16 of DISTRICT FACILITIES upon (i) DISTRICT inspection of DISTRICT FACILITIES in  
17 accordance with Section I.19., (ii) DISTRICT acceptance of PROJECT construction as being  
18 complete, (iii) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans,  
19 as set forth in Section I.25., (iv) recordation of all conveyance documents described in Section  
20 I.21., (v) COUNTY acceptance of APPURTENANCES for ownership, operation, and  
21 maintenance, and (vi) DISTRICT'S sole determination that DISTRICT FACILITIES are in a  
22 satisfactorily maintained condition.

23           9. Provide COUNTY with a reproducible duplicate copy of "record drawings"  
24 PROJECT plans upon DISTRICT acceptance of DISTRICT FACILITIES as being complete.  
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SECTION III

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COUNTY shall:

1. Review and approve IMPROVEMENT PLANS prior to the start of PROJECT construction.
2. Accept COUNTY 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 PROJECT construction.
4. Consent, by execution of this Cooperative Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Cooperative 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 DISTRICT FACILITIES, and, convey sufficient rights of way to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain DISTRICT FACILITIES.
6. Grant DISTRICT, by execution of this Agreement, the right to construct, inspect, operate and maintain DISTRICT FACILITIES within COUNTY rights of way.
7. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT FACILITIES for ownership, operation and maintenance.
8. Not grant any occupancy permits for any units within any portion of Tract No. 31632, or any phase thereof, until construction of PROJECT is complete, unless otherwise approved in writing by DISTRICT.





1 understood that since time is of the essence in this Cooperative Agreement, failure of  
2 DEVELOPER to perform the work within the agreed upon time shall constitute authority for  
3 DISTRICT to perform the remaining work and require DEVELOPER'S surety to pay to  
4 COUNTY the penal sum of any and all bonds. In which case, COUNTY shall subsequently  
5 reimburse DISTRICT for DISTRICT costs incurred.

6  
7 5. If DEVELOPER fails to commence construction of PROJECT within nine  
8 (9) months after execution of this Cooperative Agreement, then DISTRICT reserves the right to  
9 withhold issuance of the Notice to Proceed pending a review of the existing site conditions as  
10 they exist at the time DEVELOPER provides written notification to DISTRICT of the start of  
11 construction as set forth in Section I.8. In the event of a change in the existing site conditions  
12 that materially affects PROJECT function or DISTRICT'S ability to operate and maintain  
13 DISTRICT FACILITIES, DISTRICT may require DEVELOPER to modify IMPROVEMENT  
14 PLANS as deemed necessary by DISTRICT.

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

20  
21 In the event DEVELOPER wishes to expedite issuance of a Notice to  
22 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at  
23 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation  
24 of the individual's credentials and experience to DISTRICT for review and, if appropriate,  
25 approval. DISTRICT shall review the individual's qualifications and experience, upon approval  
26 thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized to act  
27 on DISTRICT'S behalf on all DISTRICT FACILITIES construction and quality control matters.  
28

1 If DEVELOPER'S initial construction inspection deposit furnished pursuant to Section I.3.  
2 exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to eighty  
3 percent (80%) of DEVELOPER'S initial inspection deposit within forty-five (45) days of  
4 DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand  
5 dollars (\$10,000) shall be retained on account.

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

19  
20  
21 8. 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,  
27 performance under this Agreement, or failure to comply with the requirements of this Agreement,  
28

1 including but not limited to: (a) property damage; (b) bodily injury or death; (c) liability or  
2 damage pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of  
3 the United States Constitution or any other law, ordinance or regulation caused by the diversion  
4 of waters from the natural drainage patterns or the discharge of drainage within or from  
5 PROJECT; or (d) any other element of any kind or nature whatsoever.

6  
7 DEVELOPER shall defend, at its sole expense, including all costs and fees  
8 (including but not limited to attorney fees, cost of investigation, defense and settlements or  
9 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and  
10 departments, their respective directors, officers, Board of Supervisors, elected and appointed  
11 officials, employees, agents and representatives) in any claim, proceeding or action for which  
12 indemnification is required.

13  
14 With respect to any of DEVELOPER'S indemnification requirements,  
15 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall  
16 have the right to adjust, settle, compromise any such claim, proceeding or action without the prior  
17 consent of DISTRICT and COUNTY; provided, however, that any such adjustment, settlement  
18 or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S  
19 indemnification obligations to DISTRICT or COUNTY.

20  
21 DEVELOPER'S indemnification obligations shall be satisfied when  
22 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal (or  
23 similar document) relieving DISTRICT or COUNTY from any liability for the claim, proceeding  
24 or action involved.

25  
26 The specified insurance limits required in this Cooperative Agreement shall  
27 in no way limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless  
28 DISTRICT and COUNTY from third party claims.

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

5           9.     DEVELOPER for itself, its successors and assigns hereby releases  
6 DISTRICT and COUNTY, their respective officers, agents, and employees from any and all  
7 claims, demands, actions, or suits of any kind arising out of any liability, known or unknown,  
8 present or future, including, but not limited to any claim or liability, based or asserted, pursuant  
9 to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States  
10 Constitution, or any other law or ordinance which seeks to impose any other liability or damage,  
11 whatsoever, for damage caused by the discharge of drainage within or from PROJECT. Nothing  
12 contained herein shall constitute a release by DEVELOPER of DISTRICT or COUNTY, their  
13 officers, agents and employees from any and all claims, demands, actions or suits of any kind  
14 arising out of any liability, known or unknown, present or future, for the negligent maintenance  
15 of DISTRICT FACILITIES and APPURTENANCES, after the acceptance of DISTRICT  
16 FACILITIES and APPURTENANCES by DISTRICT and COUNTY, respectively.

17           10.    Any waiver by DISTRICT or by COUNTY of any breach of any one or  
18 more of the terms of this Cooperative Agreement shall not be construed to be a waiver of any  
19 subsequent or other breach of the same or of any other term hereof. Failure on the part of  
20 DISTRICT or COUNTY to require exact, full and complete compliance with any terms of this  
21 Cooperative Agreement shall not be construed as in any manner changing the terms hereof, or  
22 estopping DISTRICT or COUNTY from enforcement hereof.  
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1           11. Any and all notices sent or required to be sent to the parties of this  
2 Cooperative Agreement will be mailed by first class mail, postage prepaid, to the following  
3 addresses:

4 RIVERSIDE COUNTY FLOOD CONTROL  
5 AND WATER CONSERVATION DISTRICT  
6 1995 Market Street  
7 Riverside, CA 92501  
8 Attn: Administrative Services Section

COUNTY OF RIVERSIDE  
4080 Lemon Street, 8th Floor  
Riverside, CA 92502-1090  
Attn: Transportation Department  
Plan Check Section  
Alan French

8 SR CONESTOGA, LLC  
9 41391 Kalmia Street, Suite 200  
10 Murrieta, CA 92562  
11 Attn: Jim Lytle

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

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

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

26           15. The rights and obligations of DEVELOPER shall inure to and be binding  
27 upon all heirs, successors and assignees.  
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16. 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 Cooperative Agreement.

17. The individual(s) executing this Cooperative Agreement on behalf of DEVELOPER certify that they have the authority within their respective company(ies) to enter into and execute this Cooperative Agreement, and have been authorized to do so by 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 into this Cooperative Agreement.

18. This Cooperative 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 Cooperative 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 Cooperative

Agreement on \_\_\_\_\_  
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT**

By *Mark A. Willa*  
for JASON E. UHLEY  
General Manager-Chief Engineer

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

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By *[Signature]*  
NEAL R. KIPNIS  
Deputy County Counsel

By \_\_\_\_\_  
Deputy

(SEAL)

Cooperative Agreement:  
Winchester Hills Line 3, Stage 1 (Tract No. 31632)  
Project No. 4-0-00577  
AMR:blm  
05/09/16

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RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By   
PATRICIA ROMO  
Director of Transportation

By \_\_\_\_\_  
JOHN J. BENOIT, Chairman  
Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By   
MARSHA L. VICTOR  
Principal Deputy County Counsel  
**SYNTHIA M. GUNZEL**

By \_\_\_\_\_  
Deputy

(SEAL)

Cooperative Agreement:  
Winchester Hills Line 3, Stage 1 (Tract No. 31632)  
Project No. 4-0-00576  
AMR:blm  
05/09/16

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**SR CONESTOGA, LLC**  
a Delaware limited liability company

By: Conestoga Development LLC  
a California limited liability company  
Its Co-Managing Member

By   
JEFF COMERCHERO  
Authorized Signatory

(ATTACH NOTARY WITH CAPACITY STATEMENT)

Cooperative Agreement:  
Winchester Hills Line 3, Stage 1 (Tract No. 31632)  
Project No. 4-0-00577  
AMR:blm  
05/09/16

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

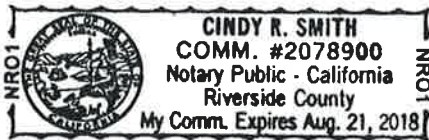
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of RIVERSIDE )  
On MAY 31 2016 before me, CINDY R SMITH, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared JEFF COMERCHEZO  
Name(s) of Signer(s)

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 Cindy R. Smith  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  Partner —  Limited  General  
 Individual  Attorney in Fact  Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_ Signer Is Representing: \_\_\_\_\_

## Exhibit A

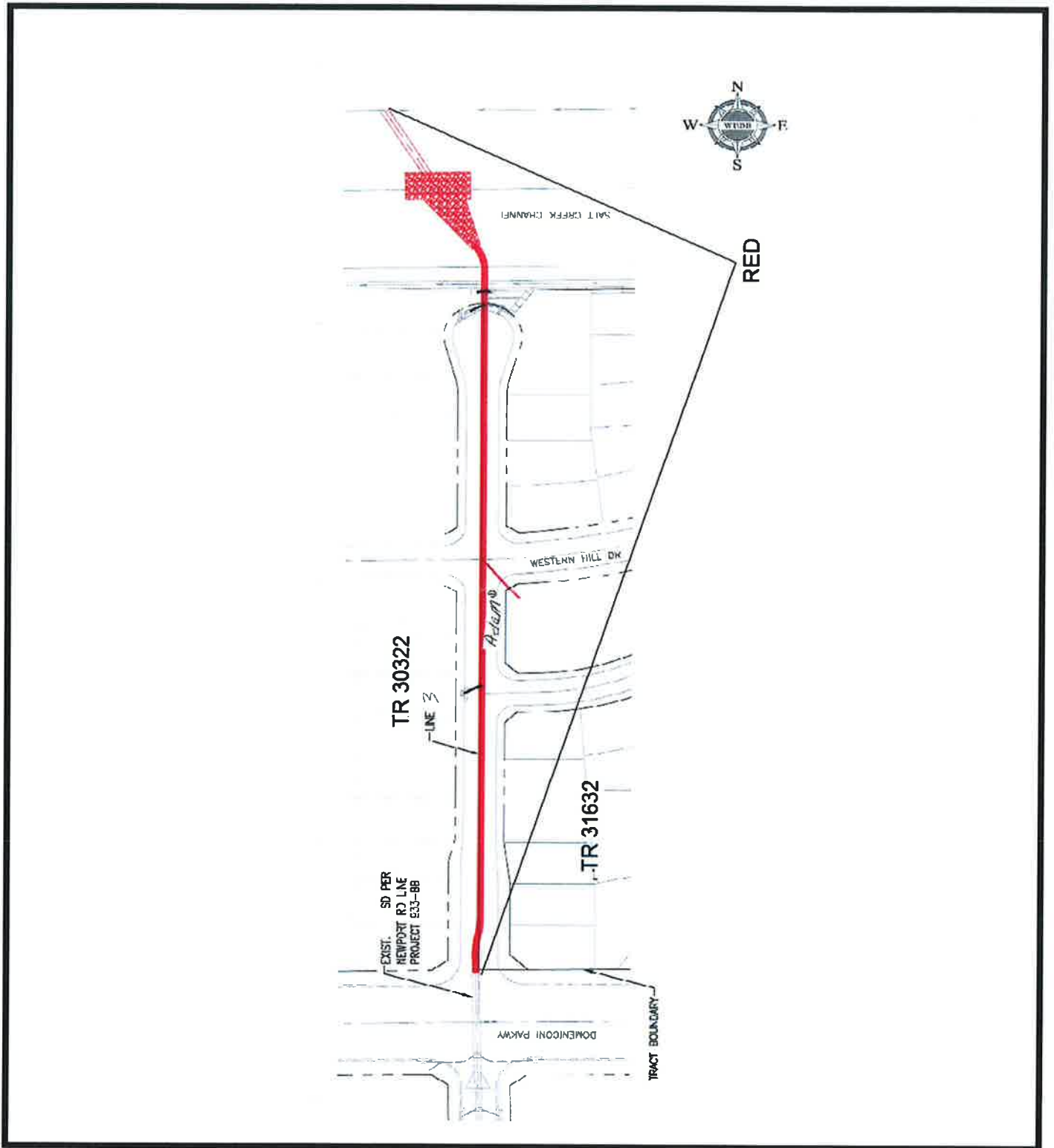
### **LEGAL DESCRIPTION**

REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1 AS SHOWN ON NOTICE OF LOT LINE ADJUSTMENT NO. 5366 RECORDED MARCH 17, 2010 AS INSTRUMENT NO. 2010-0122217 OF OFFICIAL RECORDS, LYING WITHIN SECTION 33, TOWNSHIP 5 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

APN: 461-200-042-5, 461-200-044-7 and 461-200-045-8

# Exhibit B



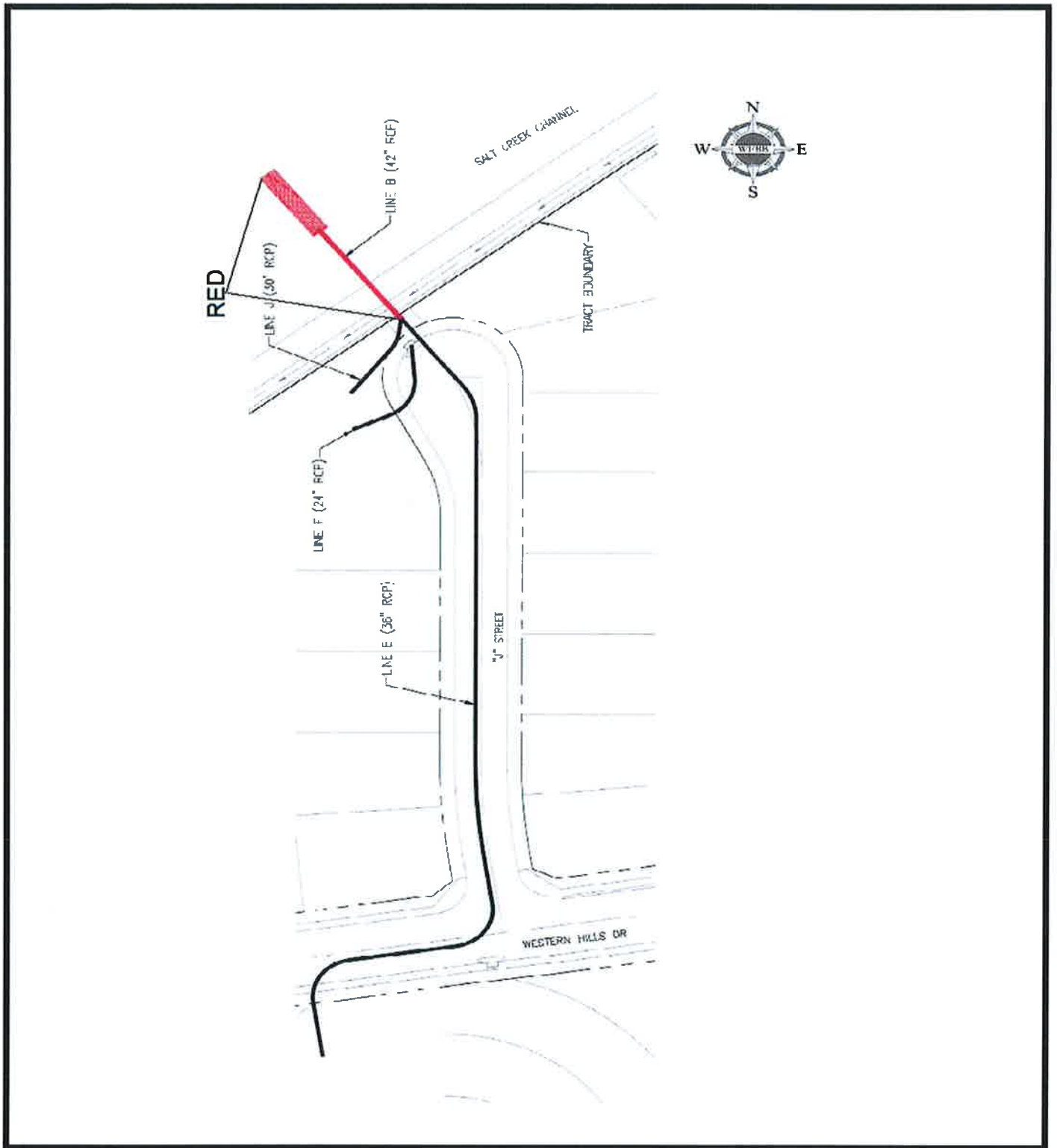
## COOPERATIVE AGREEMENT

Winchester Hills - Line 3, Stage 1

TR 31632  
Project No. 4-0-00577  
Page 1 of 2



# Exhibit B



## COOPERATIVE AGREEMENT

Winchester Hills - Line 3, Stage 1

TR 31632

Project No. 4-0-00577

Page 2 of 2