

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

933A



FROM: TLMA - Transportation Department

SUBMITTAL DATE:
August 29, 2012

SUBJECT: Cooperative Agreement between the County of Riverside (County), the County Flood Control and Water Conservation District (District), and Starfield Sycamore Investors, LLC (Developer) for the Temescal Canyon - Bunting Circle Storm Drain

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Cooperative Agreement between the County, the District and the Developer, and;
2. Authorize the Chairman of the Board to execute the Agreement documents on behalf of the County.

Juan C. Perez
Director of Transportation and Land Management Agency

FK:rg

(Continued On Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	N/A

SOURCE OF FUNDS: Developer - 100%

There are no General Funds used in this project.

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY:
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Benoit and Ashley
Nays: None
Absent: Stone
Date: September 11, 2012
xc: Transp.

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref.

District: 1st / 1st

Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.43

FORM APPROVED COUNTY COUNSEL
BY:
MARSHA L. VICTOR
DATE: 8/27/12
Departmental Concurrence

Dep't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

The Honorable Board of Supervisors

RE: Cooperative Agreement between the County of Riverside (County), the County Flood Control and Water Conservation District (District), and Starfield Sycamore Investors, LLC (Developer) for the Temescal Canyon - Bunting Circle Storm Drain

August 29, 2012

Page 2 of 2

BACKGROUND: This Agreement sets forth the terms and conditions by which certain flood control facilities, required as a condition for approval of Tract 31908-1, are to be constructed by the Developer, and inspected, operated and maintained by the District and County.

This Agreement is necessary to provide for County inspection and acceptance of the referenced drainage appurtenances.

Upon completion of the facilities' construction, the District will assume ownership, operation and maintenance of the mainline storm drain facilities. County will assume ownership and maintenance of the associated catch basins, lateral storm drain facilities, and connector pipes located within County's rights-of-way.

The Developer is funding all construction and construction inspection costs.

County Counsel has approved the Agreement as to legal form and the Developer has executed the Agreement. A companion item appears on the Flood Control and Water Conservation District Board's agenda this same date.

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 147, Riverside, Ca 92502-1147
Thank you.

COOPERATIVE AGREEMENT

Temescal Canyon - Bunting Circle Storm Drain
Project No. 2-0-00500
(Tract No. 31908-1)

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The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", the COUNTY OF RIVERSIDE, hereinafter called "COUNTY", on behalf of its Transportation Department, and STARFIELD SYCAMORE INVESTORS, LLC, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DEVELOPER has submitted for approval of Tract No. 31908-1 in unincorporated Riverside County and as a condition of approval, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER'S planned development; and

B. The required flood control facilities include construction of approximately 1,000 lineal feet of underground storm drain system and its associated access road, hereinafter called "DISTRICT DRAINAGE FACILITIES", as shown in concept on Exhibit "A" attached hereto and made a part hereof; and

C. Associated with the construction of DISTRICT DRAINAGE FACILITIES, is the construction of certain catch basins, laterals and connector pipes located within COUNTY held easements or rights of way, hereinafter called "APPURTENANCES". Together, DISTRICT DRAINAGE FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

D. DEVELOPER and COUNTY desire DISTRICT to accept ownership and responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.

1 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for
2 PROJECT and subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES;
3 and

4 E. DEVELOPER and DISTRICT desire COUNTY to accept ownership and
5 responsibility for the operation and maintenance of APPURTENANCES. Therefore, COUNTY
6 must review and approve DEVELOPER'S plans and specifications for PROJECT and
7 subsequently inspect the construction of APPURTENANCES.

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

9
10 SECTION I

11 DEVELOPER shall:

12 1. Prepare PROJECT plans and specifications, hereinafter called
13 "IMPROVEMENT PLANS", in accordance with DISTRICT and COUNTY standards, and
14 submit to DISTRICT and COUNTY for their review and approval.

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

20 3. Deposit with DISTRICT (Attention: Business Office - Accounts
21 Receivable), at the time of providing written notice to DISTRICT of the start of DISTRICT
22 DRAINAGE FACILITIES construction as set forth in Section I.7. herein, the estimated cost of
23 providing construction inspection for DISTRICT DRAINAGE FACILITIES, in an amount as
24 determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the
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1 County of Riverside, including any amendments thereto, based upon the bonded value of
2 DISTRICT DRAINAGE FACILITIES.

3 4. Secure, at its sole cost and expense, all necessary licenses, agreements,
4 permits and rights of entry as may be needed for the construction, inspection, operation and
5 maintenance of DISTRICT DRAINAGE FACILITIES. DEVELOPER shall furnish
6 DISTRICT, at the time of providing written notice to DISTRICT of the start of construction as
7 set forth in Section I.7., or not less than twenty (20) days prior to recordation of the final maps
8 for Tract No. 31908-1 or any phase thereof, whichever occurs first, with sufficient evidence of
9 DEVELOPER having secured such necessary licenses, agreements, permits and rights of entry,
10 as determined and approved by DISTRICT.
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12 5. Furnish DISTRICT with copies of all permits, approvals or agreements
13 required by any Federal, State or local resource and/or regulatory agency for the construction,
14 operation and maintenance of DISTRICT DRAINAGE FACILITIES. Such documents include
15 but are not limited to those issued by the U.S. Army Corps of Engineers, California Regional
16 Water Quality Control Board, California State Department of Fish and Game, and State Water
17 Resources Control Board.
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19 6. Provide COUNTY at the time of providing written notice to DISTRICT of
20 the start of construction as set forth in Section I.7., or not less than twenty (20) days prior to
21 recordation of the final maps for Tract No. 31908-1 or any phase thereof, whichever occurs first,
22 with faithful performance and payment bonds, each in an amount of one hundred percent
23 (100%) of the estimated cost for construction of DISTRICT DRAINAGE FACILITIES as
24 determined by DISTRICT. The surety, the amount and form of the bonds, shall be subject to
25 approval of DISTRICT and COUNTY. The bonds shall remain in full force and effect until
26 DISTRICT DRAINAGE FACILITIES are accepted by DISTRICT as complete; at which time
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1 the bond amount may be reduced to ten percent (10%) for a period of one year to guarantee
2 against any defective work, labor or materials.

3 7. Notify DISTRICT in writing (Attention: Administrative Services Section),
4 at least twenty (20) days prior to the start of construction of DISTRICT DRAINAGE
5 FACILITIES. Construction shall not begin on any element of DISTRICT DRAINAGE
6 FACILITIES, for any reason whatsoever, until DISTRICT has issued to DEVELOPER a written
7 Notice to Proceed authorizing DEVELOPER to commence construction of DISTRICT
8 DRAINAGE FACILITIES.

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

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15 9. Obtain and provide DISTRICT, at the time of providing written notice to
16 DISTRICT of the start of construction of DISTRICT DRAINAGE FACILITIES as set forth in
17 Section I.7., or not less than twenty (20) days prior to the recordation of the final maps for Tract
18 No. 31908-1 or any phase thereof, whichever occurs first, with duly executed Irrevocable
19 Offers(s) of Dedication to the public for flood control and drainage purposes, including ingress
20 and egress, for the rights of way deemed necessary by DISTRICT for the construction,
21 inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES, as shown in
22 concept cross-hatched in blue on Exhibit "B" attached hereto and made a part hereof. The
23 Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be
24 executed by all legal and equitable owners of the property described in the offer(s).
25

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

3 11. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
4 the start of construction as set forth in Section I.7., with a complete list of all contractors and
5 subcontractors to be performing work on DISTRICT DRAINAGE FACILITIES, including the
6 corresponding license number and license classification of each. At such time, DEVELOPER
7 shall further identify in writing its designated superintendent for DISTRICT DRAINAGE
8 FACILITIES construction.
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10 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
11 the start of construction as set forth in Section I.7., a construction schedule which shall show the
12 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry on the
13 various parts of work, including estimated start and completion dates. As construction of
14 DRAINAGE FACILITIES progresses, DEVELOPER shall update said construction schedule as
15 requested by DISTRICT.
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17 13. Furnish DISTRICT with final mylar PROJECT plans and assign their
18 ownership to DISTRICT prior to the start of DISTRICT DRAINAGE FACILITIES
19 construction.
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21 14. Not permit any change to or modification of DISTRICT approved
22 IMPROVEMENT PLANS without the prior written permission and consent of DISTRICT.
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24 15. Comply with all Cal/OSHA safety regulations including regulations
25 concerning confined space and maintain a safe working environment for DEVELOPER and
26 DISTRICT employees on the site.
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28 16. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
the start of construction as set forth in Section I.7., a confined space entry procedure specific to

1 DISTRICT DRAINAGE FACILITIES. The procedure shall comply with requirements
2 contained in California Code of Regulations, Title 8, Section 5158, Other Confined Space
3 Operations, Section 5157, Permit Required Confined Space and District Confined Space
4 Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to the
5 issuance of a Notice to Proceed.

6 17. During the construction period of DISTRICT DRAINAGE FACILITIES
7 provide Workers' Compensation Insurance in an amount required by law. A certificate of said
8 insurance policy shall be provided to DISTRICT and COUNTY at the time of providing written
9 notice pursuant to Section I.7.

11 18. Commencing on the date notice is given pursuant to Section I.7., and
12 continuing until DISTRICT accepts DISTRICT DRAINAGE FACILITIES for operation and
13 maintenance:

14 (a) Provide and maintain or cause its contractor(s) to provide and
15 maintain comprehensive liability insurance coverage which shall protect
16 DEVELOPER from claims for damages for personal injury, including
17 accidental and wrongful death, as well as from claims for property damage
18 which may arise from DEVELOPER'S construction of PROJECT or the
19 performance of its obligations hereunder, whether such construction or
20 performance be by DEVELOPER, by any of its contractors, subcontractors,
21 or by anyone employed directly or indirectly by any of them. Such
22 insurance shall name DISTRICT and COUNTY as additional insureds with
23 respect to this Agreement and the obligations of DEVELOPER hereunder.
24 Such insurance shall provide for limits of not less than two million dollars
25 (\$2,000,000) per occurrence.
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1 (b) Cause its insurance carrier(s) or its contractor's insurance carrier(s), who
2 shall be authorized by the California Department of Insurance to transact
3 the business of insurance in the State of California, to furnish DISTRICT
4 and COUNTY at the time of providing written notice to DISTRICT of the
5 start of construction as set forth in Section I.7., with certificate(s) of
6 insurance and applicable policy endorsements showing that such insurance
7 is in full force and effect and that DISTRICT and COUNTY are named as
8 additional insureds with respect to this Agreement and the obligations of
9 DEVELOPER hereunder. Further, said certificate(s) shall state that the
10 issuing company shall give DISTRICT and COUNTY sixty (60) days
11 written notice in the event of any cancellation, termination, non-renewal or
12 reduction in coverage of the policies evidenced by the certificate(s). In the
13 event cancellation, termination, non-renewal or reduction of coverage,
14 DEVELOPER shall forthwith, secure replacement insurance meeting the
15 provisions of this paragraph.
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18 Failure to maintain the insurance required by this paragraph shall be deemed a
19 material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at
20 its sole discretion, to proceed to perform the remaining work pursuant to Section IV.3.

21 19. Construct, or cause to be constructed, PROJECT at DEVELOPER'S sole
22 cost and expense in accordance with DISTRICT and COUNTY approved IMPROVEMENT
23 PLANS.
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25 20. Within two (2) weeks of completing PROJECT construction, provide
26 DISTRICT with written notice (Attention: Contract Administration Section) that PROJECT
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1 construction is substantially complete and requesting that DISTRICT conduct a final inspection
2 of DISTRICT DRAINAGE FACILITIES.

3 21. Upon completion of PROJECT construction, and upon acceptance by
4 COUNTY of all street rights of way deemed necessary by DISTRICT and COUNTY for the
5 operation and maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT
6 DRAINAGE FACILITIES for ownership, operation and maintenance, convey, or cause to be
7 conveyed to DISTRICT flood control easement(s), including ingress and egress, in a form
8 approved by DISTRICT, for the rights of way as shown in concept cross-hatched in blue on
9 Exhibit "B".
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11 22. At the time of recordation of the conveyance document(s) as set forth in
12 Section I.21., furnish DISTRICT with policies of title insurance, each in the amount of not less
13 than fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
14 easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
15 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
16 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
17 deemed acceptable.
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19 23. Accept ownership and sole responsibility for the operation and maintenance
20 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
21 and maintenance of DISTRICT DRAINAGE FACILITIES and COUNTY accepts ownership
22 and responsibility for operation and maintenance of APPURTENANCES. Further, it is mutually
23 understood by the parties hereto that prior to DISTRICT acceptance of ownership and
24 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES,
25 PROJECT shall be in a satisfactorily maintained condition as solely determined by DISTRICT.
26 If, subsequent to the inspection and, in the sole discretion of DISTRICT, DISTRICT
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1 DRAINAGE FACILITIES are not in an acceptable condition, corrections will be made at sole
2 expense of DEVELOPER.

3 24. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
4 completion of DISTRICT DRAINAGE FACILITIES, all costs and reasonable expenses and
5 fees, including reasonable attorneys' fees, and acknowledge that, upon entry of judgment, all
6 such costs, expenses and fees shall be computed as costs and included in any judgment
7 rendered.

8 25. Upon completion of construction of PROJECT, but prior to DISTRICT
9 acceptance of DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance,
10 provide or cause its civil engineer of record or construction civil engineer of record, duly
11 registered in the State of California to provide DISTRICT with a redlined "RECORD
12 DRAWING" copy of PROJECT plans. After DISTRICT approval of the redlined "RECORD
13 DRAWING", DEVELOPER'S engineer shall schedule with DISTRICT a time to transfer the
14 redlined changes onto DISTRICT'S original mylars at DISTRICT'S office, after which the
15 engineer shall review, stamp and sign the original mylars PROJECT plans "RECORD
16 DRAWING".
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19 26. Ensure that all work performed pursuant to this Agreement by
20 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
21 regulations, including but not limited to all applicable provisions of the Labor Code, Business
22 and Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs
23 associated with compliance with applicable laws and regulations.
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SECTION II

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DISTRICT shall:

1. Review and approve IMPROVEMENT PLANS prior to the start of DISTRICT DRAINAGE FACILITIES construction.
2. Provide COUNTY 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 provided by DEVELOPER pursuant to Section I.9.
5. Inspect DISTRICT DRAINAGE FACILITIES construction.
6. Keep an accurate accounting of all DISTRICT costs associated with 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 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 DISTRICT DRAINAGE FACILITIES, within thirty (30) days after receipt of billing from DISTRICT.

1 8. Accept ownership and sole responsibility for the operation and maintenance
2 of DISTRICT DRAINAGE FACILITIES upon (i) DISTRICT acceptance of PROJECT
3 construction as being complete, (ii) DISTRICT receipt of stamped and signed RECORD
4 DRAWING of PROJECT plans as set forth in Section I. 25., (iii) recordation of all conveyance
5 documents described in Section I.21., (iv) COUNTY acceptance of all necessary street rights of
6 way as deemed necessary by DISTRICT and COUNTY for the operation and maintenance of
7 PROJECT, (v) COUNTY acceptance of APPURTENANCES for ownership, operation and
8 maintenance, and (vi) DISTRICT's sole determination that DISTRICT DRAINAGE
9 FACILITIES are in a satisfactorily maintained condition.
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11 9. Provide COUNTY with a reproducible duplicate copy of "RECORD
12 DRAWING" PROJECT plans upon DISTRICT acceptance of DISTRICT DRAINAGE
13 FACILITIES as being complete.
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15 SECTION III

16 COUNTY shall:

17 1. Review and approve IMPROVEMENT PLANS prior to the start of
18 PROJECT construction.

19 2. Accept COUNTY and DISTRICT approved faithful performance and
20 payment bonds submitted by DEVELOPER as set forth in Section I.6., and hold said bonds as
21 provided herein.

22 3. Inspect construction of APPURTENANCES.

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

25 5. As requested by DISTRICT, accept the Irrevocable Offer(s) of
26 Dedication as set forth herein, and any other outstanding offers of dedication necessary for the
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1 2. COUNTY and DEVELOPER personnel may observe and inspect all work
2 being done on DISTRICT DRAINAGE FACILITIES, but shall provide any comments to
3 DISTRICT personnel who shall be solely responsible for all quality control communications
4 with DEVELOPER'S contractor(s) during the construction of DISTRICT DRAINAGE
5 FACILITIES.

6 3. DEVELOPER shall complete construction of DISTRICT DRAINAGE
7 FACILITIES within twelve (12) consecutive months after execution of this Agreement and
8 within one hundred eighty (180) consecutive calendar days after commencing work on
9 DISTRICT DRAINAGE FACILITIES. It is expressly understood that since time is of the
10 essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon
11 time shall constitute authority for DISTRICT to perform the remaining work and require
12 DEVELOPER'S surety to pay to COUNTY the penal sum of any and all bonds. In which case,
13 COUNTY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.

14 4. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed
15 within twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in
16 Section I.7.; however, DISTRICT'S construction inspection staff is limited and, therefore, the
17 issuance of a Notice to Proceed is subject to staff availability.

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

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

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

6 DEVELOPER shall defend, at its sole expense, including all costs and fees
7 (including but not limited to attorney fees, cost of investigation, defense and settlements or
8 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and
9 departments, their respective directors, officers, Board of Supervisors, elected and appointed
10 officials, employees, agents and representatives) in any claim proceeding or action for which
11 indemnification is required.
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13 With respect to any of DEVELOPER'S indemnification requirements,
14 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall
15 have the right to adjust, settle, compromise any such claim, proceeding or action without the
16 prior consent of DISTRICT and COUNTY; provided, however, that any such adjustment,
17 settlement or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S
18 indemnification obligations to DISTRICT or COUNTY.
19

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

25 The specified insurance limits required in this Agreement shall in no way limit or
26 circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT and
27 COUNTY from third party claims.
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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
3 2782. Such interpretation shall not relieve the DEVELOPER from indemnifying DISTRICT or
4 COUNTY to the fullest extent allowed by law.

5 7. DEVELOPER shall not request DISTRICT to accept any portion or
6 portions of DISTRICT DRAINAGE FACILITIES or COUNTY to accept any portion or
7 portions of APPURTENANCES prior to the completion of PROJECT construction.

8 8. 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.
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15 9. If any provision in this Agreement is held by a court of competent
16 jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall remain in full
17 force and effect without being impaired or invalidated in any way.
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19 10. In the event of any arbitration, action or suit brought by either
20 DEVELOPER, DISTRICT or COUNTY against the other party by reason of any breach on the
21 part of the other party of any of the covenants and agreements set forth in this Agreement, or
22 any other dispute between the DISTRICT, COUNTY or DEVELOPER concerning this
23 Agreement, the prevailing party in any such action or dispute, by a final judgment or arbitration
24 award, shall be entitled to have and recover from the other party all costs and expenses or
25 claims, including but not limited to, attorney's fees and expert witness fees. This section shall
26 survive any termination of this Agreement.
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11. This Agreement is to be construed in accordance with the laws of the State of California.

12. 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

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

STARFIELD SYCAMORE INVESTORS, LLC
2151 Michelson Dr., #250
Irvine, CA 92612
Attn: Brian Woods

13. 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.

14. 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.

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

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

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

3 17. The individual(s) executing this Agreement on behalf of DEVELOPER
4 certify that they have the authority within their respective company(ies) to enter into and
5 execute this Agreement, and have been authorized to do so by all boards of directors, legal
6 counsel, and / or any other board, committee or other entity within their respective company(ies)
7 which have the authority to authorize or deny entering into this Agreement.
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9 18. This Agreement is intended by the parties hereto as a final expression of
10 their understanding with respect to the subject matter hereof and as a complete and exclusive
11 statement of the terms and conditions thereof and supersedes any and all prior and
12 contemporaneous agreements and understandings, oral or written, in connection therewith. This
13 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

SEP 11 2012

(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
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 [Signature]
NEAL R. KIPNIS
Deputy County Counsel

KECIA HARPER-IHEM
Clerk of the Board
By [Signature]
Deputy


(SEAL)

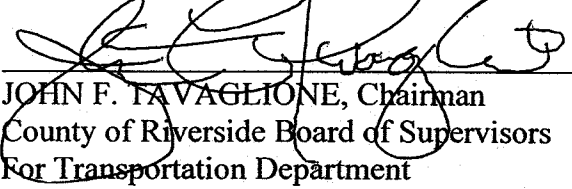
Cooperative Agreement:
Tract No. 31908-1
Temescal Canyon – Bunting Circle Storm Drain
07/18/12

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

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By 
JUAN C. PEREZ, Director
Transportation and Land Management


By 
JOHN F. FAVAGLIONE, Chairman
County of Riverside Board of Supervisors
For Transportation Department

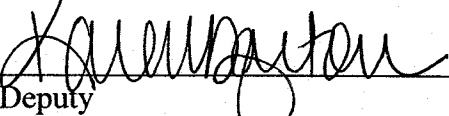
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

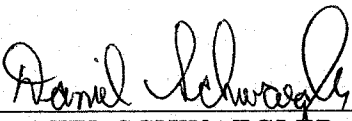
By  8/27/12
MARSHA L. VICTOR
Principal Deputy County Counsel

By 
Deputy

(SEAL)

Cooperative Agreement:
Tract No. 31908-1
Temescal Canyon – Bunting Circle Storm Drain
07/18/12

STARFIELD SYCAMORE INVESTORS, LLC

By 
DANIEL SCHWAEGLER
Vice President

(NOTARY)

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Cooperative Agreement:
Tract No. 31908-1
Temescal Canyon – Bunting Circle Storm Drain
07/18/12

ACKNOWLEDGMENT

State of California
County of Marin

On 8/11/12 before me, C. Betzner, Notary Public
(insert name and title of the officer)

personally appeared Daniel Schwagerl
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 *C. Betzner*

(Seal)

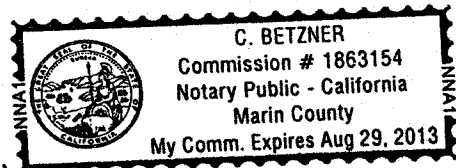
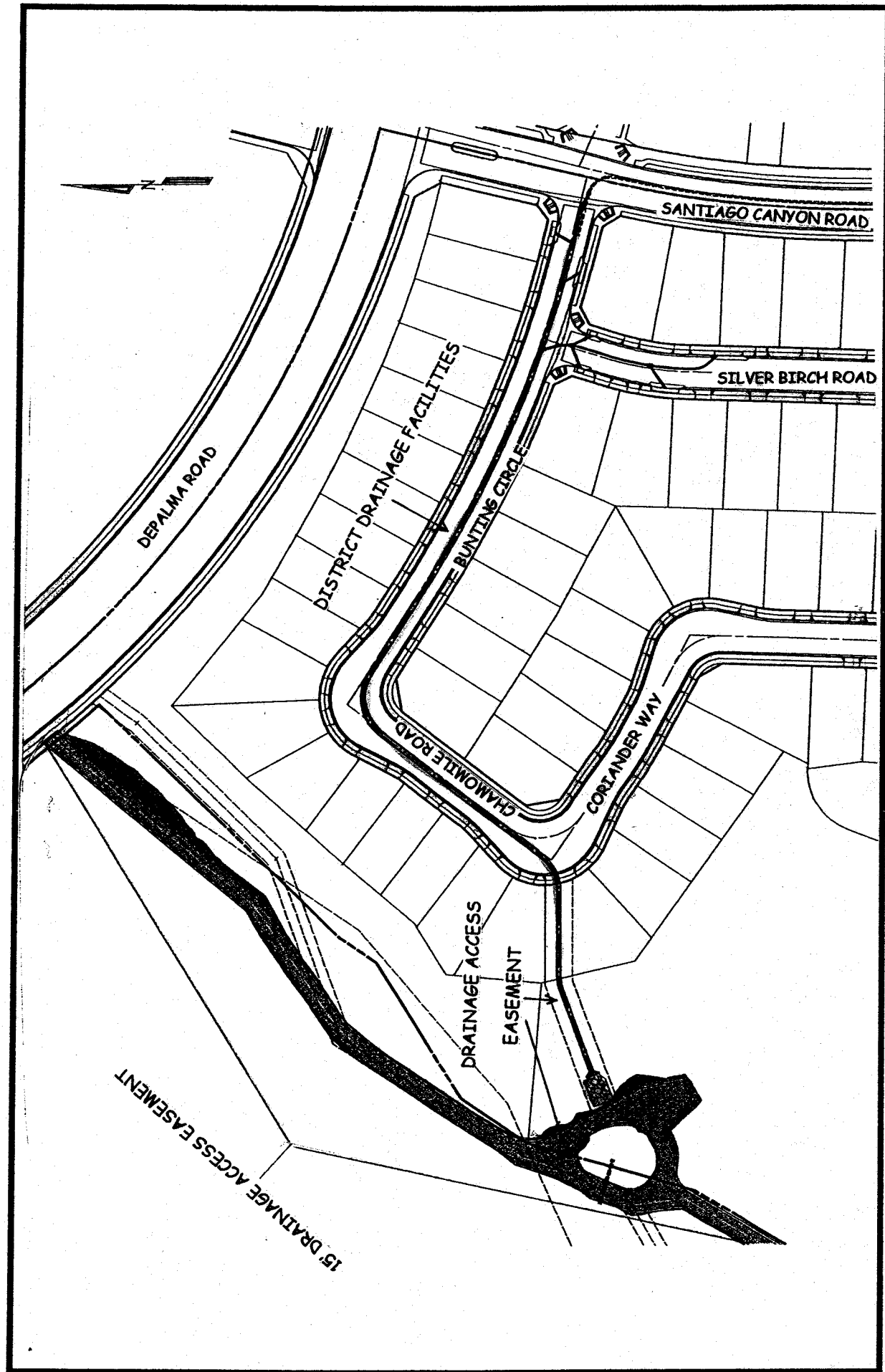
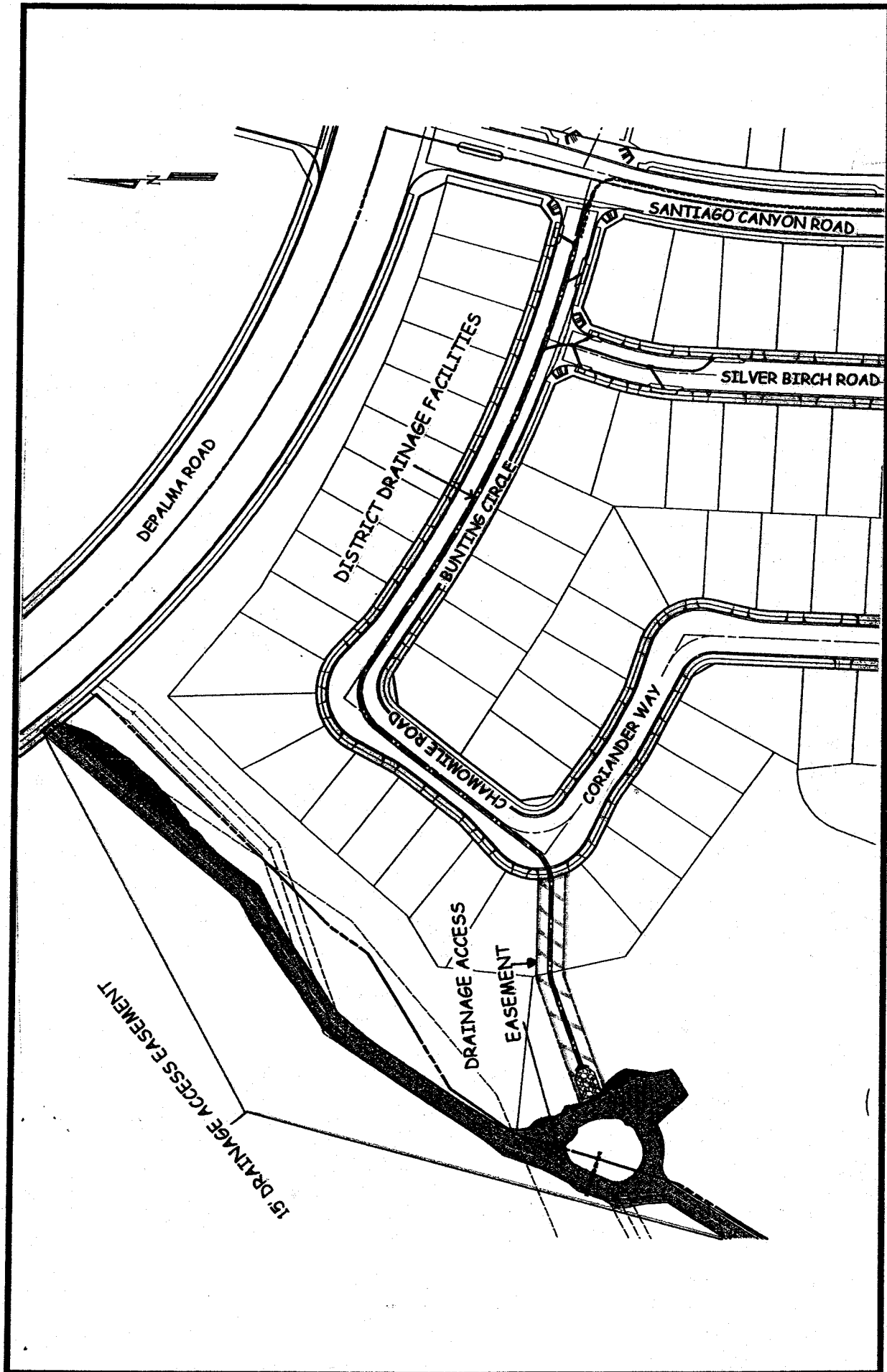


Exhibit A



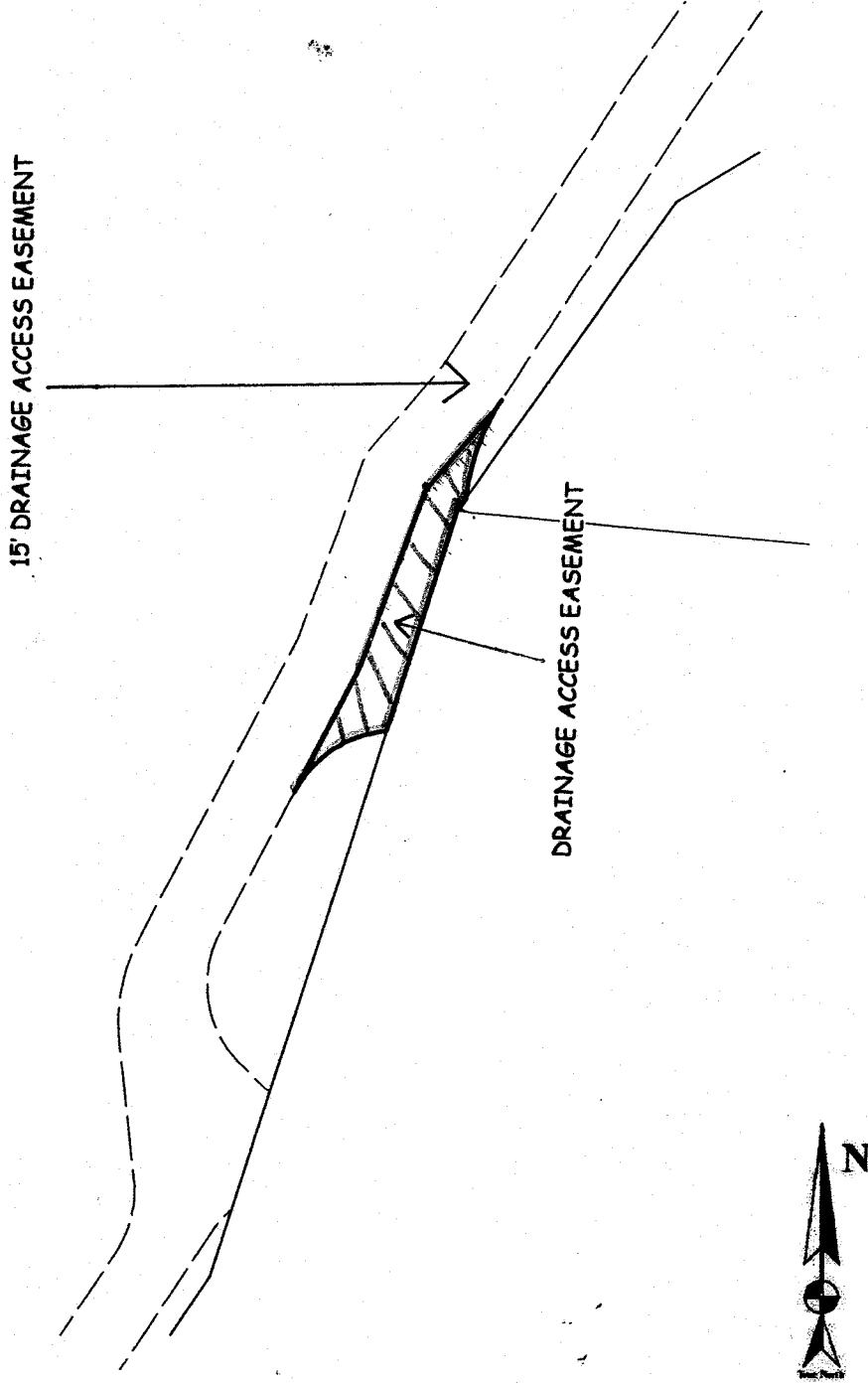
Cooperative Agreement
Temescal Canyon - Bunting Circle Storm Drain
Project Number: 2-0-00500
1/1

Exhibit B



Cooperative Agreement
Temescal Canyon - Bunting Circle Storm Drain
Project Number: 2-0-00500
1/2

Exhibit B



Cooperative Agreement
Temescal Canyon - Bunting Circle Storm Drain
Project Number: 2-0-00500
2/2

