

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

410B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

November 6, 2012

SUBJECT: Murrieta Valley – Oak Springs Ranch Storm Drain
Project No. 7-0-00172 (Tract No. 31736-1)
Cooperative Agreement
District 1/District 1

RECOMMENDED MOTION:

Approve the Cooperative Agreement between the District, the City of Wildomar (City) and Oak Springs Ranch, LLC (Developer) and authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The Agreement sets forth the terms and conditions by which certain flood control facilities, required as a condition for approval of Tract No. 31736-1, are to be constructed by the Developer and inspected, operated and maintained by the District and City.

Continued on Page 2

WARREN D. WILLIAMS
General Manager-Chief Engineer

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

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

C.E.O. RECOMMENDATION:

APPROVE

BY:
Michael R. Shetler

County Executive Office Signature

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

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: November 6, 2012
xc: Flood

Kecia Harper-Ihem
Clerk of the Board
By: _____
Deputy

FORM APPROVED COUNTY COUNSEL BY: NEAL R. KIPNIS DATE: 11/6/12

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

SUBJECT: Murrieta Valley – Oak Springs Ranch Storm Drain
Project No. 7-0-00172 (Tract No. 31736-1)
Cooperative Agreement
District 1/District 1

SUBMITTAL DATE: November 6, 2012

Page 2

BACKGROUND (continued):

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the referenced facilities associated with Tract No. 31736-1. Upon completion of the facilities' construction, the District will assume ownership, operation and maintenance of a segment of the mainline storm drain. The City will assume ownership, operation and maintenance of the remaining segment of the mainline storm drain and the associated connector pipes located within its rights of way.

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

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

KEC:blj

November 6, 2012

From: Gerard Ste. Marie
P.O. Box 486
Wildomar, CA 92595

To: Riverside County Flood Control and Water Conservation District
1995 Market Street
Riverside, CA 92501

Re: **Agenda Item 11.6 of 11/6/2012 – Written Comment to the Murrieta Valley – Oak Springs Ranch Storm Drain Project No. 7-0-00172 (Tract No. 31736-1) Cooperative Agreement**

To the Wildomar Riverside County Flood Control and Water Conservation District Board: Please consider the following comment to the proposed Murrieta Valley – Oak Springs Ranch Storm Drain Project No. 7-0-00172 (Tract No. 31736-1) Cooperative Agreement:

I. The proposed Murrieta Valley – Oak Springs Ranch Storm Drain Project No. 7-0-00172 (Tract No. 31736-1) Cooperative Agreement is a “Project” Requiring CEQA Review Prior to Board Approval

The “*Oak Springs Ranch Storm Drain Project No. 7-0-00172 (Tract No. 31736-1) Cooperative Agreement*” fits the definition of a “project” under CEQA requiring prior environmental review prior to Board approval. However, no CEQA notices or documents have been prepared or published regarding the project. Although a prior EIR was approved in 2007 for overall construction of Oak Springs Ranch on the site, the environmental impacts of the storm drain project cooperative agreement have never been analyzed in any CEQA document. Accordingly, approval of the cooperative agreement will require either a supplement to the prior EIR approved in 2007 for the overall construction project on the site, or else an initial study and preparation of either a notice of exemption, a negative declaration, a mitigated negative declaration or a draft EIR as a new stand-alone project.

DATED: November 6, 2012

By: Gerard Ste. Marie
P.O. Box 486
Wildomar, CA 92595

Submitted by Gerard Marie
11-6-12 Item 11.6

November 6, 2012

From: Martha Bridges
35465 Woshka Lane
Wildomar, CA 92595

To: Riverside County Flood Control and Water Conservation District
1995 Market Street
Riverside, CA 92501

Re: **Agenda Item 11.6 of 11/6/2012 – Written Comment to the Murrieta Valley – Oak Springs Ranch Storm Drain Project No. 7-0-00172 (Tract No. 31736-1) Cooperative Agreement**

To the Wildomar Riverside County Flood Control and Water Conservation District Board: Please consider the following comment to the proposed Murrieta Valley – Oak Springs Ranch Storm Drain Project No. 7-0-00172 (Tract No. 31736-1) Cooperative Agreement:

I. The proposed Murrieta Valley – Oak Springs Ranch Storm Drain Project No. 7-0-00172 (Tract No. 31736-1) Cooperative Agreement is a “Project” Requiring CEQA Review Prior to Board Approval

The “Oak Springs Ranch Storm Drain Project No. 7-0-00172 (Tract No. 31736-1) Cooperative Agreement” fits the definition of a “project” under CEQA requiring prior environmental review prior to Board approval. However, no CEQA notices or documents have been prepared or published regarding the project. Although a prior EIR was approved in 2007 for overall construction of Oak Springs Ranch on the site, the environmental impacts of the storm drain project cooperative agreement have never been analyzed in any CEQA document. Accordingly, approval of the cooperative agreement will require either a supplement to the prior EIR approved in 2007 for the overall construction project on the site, or else an initial study and preparation of either a notice of exemption, a negative declaration, a mitigated negative declaration or a draft EIR as a new stand-alone project.

DATED: November 6, 2012

By: Martha Bridges
35465 Woshka Lane
Wildomar, CA 92595

Submitted by Martha Bridges

11-6-12 Item 11.6

COOPERATIVE AGREEMENT

Murrieta Valley – Oak Springs Ranch Storm Drain

(Project No. 7-0-00172)

(Tract No. 31736-1)

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", the CITY OF WILDOMAR, hereinafter called "CITY", and OAK SPRINGS RANCH, LLC, a Delaware limited liability company, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DEVELOPER has submitted for approval Tract No. 31736-1 in the city of Wildomar and as a condition for 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, as shown on DISTRICT Drawing No. 7-495, include construction of approximately 2,196 lineal feet of underground storm drain system and an associated outlet structure, hereinafter called "DISTRICT DRAINAGE FACILITIES", as shown in concept in red on Exhibit "A" attached hereto and made a part hereof. At its downstream terminus, DISTRICT DRAINAGE FACILITIES drain into an existing open natural drainage course within proposed Lot 203 of Tract No. 31736-1; and

C. Associated with the construction of DISTRICT DRAINAGE FACILITIES is the construction of an upstream segment of the mainline storm drain, hereinafter called "APPURTENANCES", as shown in concept in green on Exhibit "A" attached hereto and made a part hereof, and a separate, large storm drain and associated diversion structure located within Tract No. 31736-1, hereinafter called "PRIVATE STORM DRAIN". Together, DISTRICT

1 DRAINAGE FACILITIES, APPURTENANCES and PRIVATE STORM DRAIN are
2 hereinafter called "PROJECT"; and

3 D. DEVELOPER and CITY desire DISTRICT to accept ownership and
4 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.
5 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for
6 PROJECT and subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES;
7 and

8 E. DEVELOPER and DISTRICT desire CITY to accept ownership and
9 responsibility for the operation and maintenance of APPURTENANCES. Therefore, CITY
10 must review and approve DEVELOPER'S plans and specifications for PROJECT and
11 subsequently inspect the construction of APPURTENANCES; and

12 F. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and
13 specifications for PROJECT, (ii) inspect the construction of DISTRICT DRAINAGE
14 FACILITIES, and (iii) accept ownership and responsibility for the operation and maintenance of
15 DISTRICT DRAINAGE FACILITIES, provided DEVELOPER (i) complies with this
16 Agreement, (ii) pays DISTRICT the amounts specified herein to cover DISTRICT'S plan review
17 and construction inspection costs, (iii) pays DISTRICT the amount specified herein to cover
18 DISTRICT'S estimated cost to operate and maintain DISTRICT DRAINAGE FACILITIES for
19 a period of ten (10) years commencing upon DISTRICT'S acceptance of DISTRICT
20 DRAINAGE FACILITIES as complete for ownership, operation and maintenance, (iv)
21 constructs PROJECT in accordance with plans and specifications approved by DISTRICT and
22 CITY, (v) obtains all necessary agreements, regulatory permits, licenses and rights of entry as
23 set forth herein, (vi) accepts ownership and responsibility for the operation and maintenance of
24 PROJECT following completion of PROJECT construction until such time as DISTRICT
25
26
27
28

1 accepts ownership and responsibility for the operation and maintenance of DISTRICT
2 DRAINAGE FACILITIES and CITY accepts ownership and responsibility for the operation and
3 maintenance of APPURTENANCES, and (vii) obtains and conveys to DISTRICT the necessary
4 rights of way for the inspection, operation and maintenance of DISTRICT DRAINAGE
5 FACILITIES as set forth herein; and

6 G. CITY is willing to (i) review and approve plans and specifications prepared
7 by DEVELOPER for PROJECT, (ii) inspect the construction of APPURTENANCES, (iii)
8 accept and hold faithful performance and payment bonds submitted by DEVELOPER for
9 DISTRICT DRAINAGE FACILITIES, (iv) consent to the recordation and conveyance of
10 Irrevocable Offer(s) of Dedication furnished by DEVELOPER as provided herein, and (v)
11 accept ownership and responsibility for the operation and maintenance of APPURTENANCES,
12 provided PROJECT is constructed in accordance with plans and specifications approved by
13 DISTRICT and CITY.

14
15 NOW, THEREFORE, the parties hereto mutually agree as follows:

16
17 SECTION I

18 DEVELOPER shall:

19 1. Prepare PROJECT plans and specifications, hereinafter called
20 "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards,
21 and submit to DISTRICT and CITY for their review and approval.

22 2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic
23 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by
24 DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT
25 PLANS, review and approval of right of way and conveyance documents, and with the
26 processing and administration of this Agreement.
27
28

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

8 4. Pay DISTRICT, at the time of providing written notice to DISTRICT of the
9 start of construction as set forth in Section I.8., the one-time cash sum of thirteen thousand two
10 hundred dollars (\$13,200), the amount agreed upon to cover DISTRICT'S estimated cost to
11 operate and maintain DISTRICT DRAINAGE FACILITIES for a period of ten (10) years (Zone
12 7 – Maintenance Trust Fund) commencing upon DISTRICT'S acceptance of DISTRICT
13 DRAINAGE FACILITIES as complete for ownership, operation and maintenance.

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

21 6. Furnish DISTRICT with copies of all permits, approvals or agreements
22 required by any Federal, State or local resource and/or regulatory agency for the construction,
23 operation and maintenance of DISTRICT DRAINAGE FACILITIES. Such documents include
24 but are not limited to those issued by the U.S. Army Corps of Engineers, California Regional
25 DISTRICT.

1 Water Quality Control Board, California State Department of Fish and Game, and State Water
2 Resources Control Board.

3 7. Provide CITY, at the time of providing written notice to DISTRICT of the
4 start of construction as set forth in Section I.8., with faithful performance and payment bonds,
5 each in the amount of one hundred percent (100%) of the estimated cost for construction of
6 DISTRICT DRAINAGE FACILITIES as determined by DISTRICT. The surety, amount and
7 form of the bonds shall be subject to the approval of DISTRICT and CITY. The bonds shall
8 remain in full force and effect until DISTRICT DRAINAGE FACILITIES are accepted by
9 DISTRICT as complete; at which time the bond amount may be reduced to ten percent (10%)
10 for a period of one (1) year to guarantee against any defective work, labor or materials.
11

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

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

24 10. Obtain and provide DISTRICT, at the time of providing written notice to
25 DISTRICT of the start of construction of DISTRICT DRAINAGE FACILITIES as set forth in
26 Section I.8., with duly executed Irrevocable Offers(s) of Dedication to the public for flood
27 control and drainage purposes, including ingress and egress, for the rights of way deemed
28

1 necessary by DISTRICT for the construction, inspection, operation and maintenance of
2 DISTRICT DRAINAGE FACILITIES, as shown in concept cross-hatched in blue and cross-
3 hatched in green on Exhibit "B" attached hereto and made a part hereof. The Irrevocable
4 Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be executed by all
5 legal and equitable owners of the property described in the offer(s).

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

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.8., with a complete list of all contractors and
12 subcontractors to be performing work on DISTRICT DRAINAGE FACILITIES, including the
13 corresponding license number and license classification of each. At such time, DEVELOPER
14 shall further identify in writing its designated superintendent for DISTRICT DRAINAGE
15 FACILITIES construction.

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

22 14. Furnish DISTRICT with final mylar PROJECT plans and assign their
23 ownership to DISTRICT at the time DISTRICT approves and signs said final mylar plans, and
24 prior to the start of DISTRICT DRAINAGE FACILITIES construction.

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

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

6 17. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
7 the start of construction as set forth in Section I.8., a confined space entry procedure specific to
8 DISTRICT DRAINAGE FACILITIES. The procedure shall comply with requirements
9 contained in California Code of Regulations, Title 8 Section 5158, Other Confined Space
10 Operations, Section 5157, Permit Required Confined Space and District Confined Space
11 Procedures, SOM-18. The procedure shall be reviewed and approved by DISTRICT prior to the
12 issuance of a Notice to Proceed.
13

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

19 19. Commencing on the date notice is given pursuant to Section I.8. and
20 continuing until DISTRICT accepts DISTRICT DRAINAGE FACILITIES for operation and
21 maintenance:
22

- 23 (a) Provide and maintain or cause its contractor(s) to provide and
24 maintain comprehensive liability insurance coverage which shall
25 protect DEVELOPER from claim for damages or personal injury,
26 including accidental and wrongful death, as well as from claims for
27 property damage which may arise from DEVELOPER'S construction
28

1 of PROJECT or the performance of its obligations hereunder, whether
2 such construction or performance be by DEVELOPER, by any of its
3 contractors, subcontractors, or by anyone employed directly or
4 indirectly by any of them. Such insurance shall name DISTRICT, the
5 County of Riverside and CITY as additional insureds with respect to
6 this Agreement and the obligations of DEVELOPER hereunder. Such
7 insurance shall provide for limits of not less than two million dollars
8 (\$2,000,000) per occurrence.

9
10 (b) Cause its insurance carrier(s) or its contractor's insurance carrier(s),
11 who shall be authorized by the California Department of Insurance to
12 transact the business of insurance in the State of California, to furnish
13 DISTRICT and CITY at the time of providing written notice to
14 DISTRICT of the start of construction as set forth in Section I.8., with
15 certificate(s) of insurance and applicable policy endorsements
16 showing that such insurance is in full force and effect and that
17 DISTRICT, the County of Riverside and CITY are named as
18 additional insureds with respect to this Agreement and the obligations
19 of DEVELOPER hereunder. Further, said certificate(s) shall state
20 that the issuing company shall give DISTRICT and CITY sixty (60)
21 days written notice in the event of any cancellation, termination, non-
22 renewal or reduction in coverage of the policies evidenced by the
23 certificate(s). In the event of any such cancellation, termination, non-
24 renewal or reduction in coverage, DEVELOPER shall, forthwith,
25
26
27
28

1 secure replacement insurance meeting the provisions of this
2 paragraph.

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

7
8 20. Construct or cause to be constructed, PROJECT at DEVELOPER'S sole
9 cost and expense in accordance with DISTRICT and CITY approved IMPROVEMENT
10 PLANS.

11 21. Within two (2) weeks of completing PROJECT construction, provide
12 DISTRICT with written notice (Attention: Contract Administration Section) that PROJECT
13 construction is substantially complete and requesting that DISTRICT conduct a final inspection
14 of DISTRICT DRAINAGE FACILITIES.

15
16 22. At the time of providing DISTRICT with written notice of completion as
17 set forth in Section I.21., provide DISTRICT with "Knox box" keys or other similar means of
18 permanent access through security gates or other devices installed by DEVELOPER to block
19 unimpeded public access to location of DISTRICT DRAINAGE FACILITIES.

20 23. Upon completion of PROJECT construction, and upon acceptance by CITY
21 of all street rights of way deemed necessary by DISTRICT and CITY for the operation and
22 maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT DRAINAGE
23 FACILITIES for ownership, operation and maintenance, convey, or cause to be conveyed to
24 DISTRICT flood control easement(s), including ingress and egress, in a form approved by
25 DISTRICT, for (a) the rights of way as shown in concept cross-hatched in blue and cross-
26
27
28

1 hatched in green on Exhibit "B" attached hereto and made a part hereof and (b) a blanket right
2 of ingress and egress as shown in concept cross-hatched in red on Exhibit "B".

3 24. At the time of recordation of the conveyance document(s) as set forth in
4 Section I.23., furnish DISTRICT with policies of title insurance, each in the amount of not less
5 than fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
6 easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
7 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
8 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
9 deemed acceptable.
10

11 25. Accept ownership and sole responsibility for the operation and maintenance
12 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
13 and maintenance of DISTRICT DRAINAGE FACILITIES and CITY accepts ownership and
14 responsibility for operation and maintenance of APPURTENANCES. Following such
15 acceptances by DISTRICT and CITY, DEVELOPER, its successors or assigns, shall retain
16 ownership and sole responsibility for the operation and maintenance of PRIVATE STORM
17 DRAIN.
18

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

25 27. Upon completion of construction of PROJECT, but prior to DISTRICT
26 acceptance of DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance,
27 DEVELOPER'S civil engineer of record or construction civil engineer of record, duly registered
28

1 in the State of California, shall provide DISTRICT a redlined "RECORD DRAWING" of
2 PROJECT plans. After DISTRICT approval of the redlined RECORD DRAWING,
3 DEVELOPER'S engineer shall schedule with DISTRICT a time to transfer the redlined changes
4 onto DISTRICT'S original mylars at DISTRICT'S office, after which the engineer shall review,
5 stamp and sign the original mylars PROJECT plans "RECORD DRAWING".

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

12 SECTION II

13 DISTRICT shall:

14 1. Review and approve IMPROVEMENT PLANS prior to the start of
15 DISTRICT DRAINAGE FACILITIES construction.

16 2. Provide CITY an opportunity to review and approve IMPROVEMENT
17 PLANS prior to DISTRICT'S final approval.

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

20 4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication
21 provided by DEVELOPER pursuant to Section I.10.

22 5. Inspect DISTRICT DRAINAGE FACILITIES construction.

23 6. Keep an accurate accounting of all DISTRICT costs associated with the
24 review and approval of IMPROVEMENT PLANS, the review and approval of right of way and
25 conveyance documents, and the processing and administration of this Agreement.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Inspect construction of APPURTENANCES.

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 DISTRICT DRAINAGE FACILITIES, and convey sufficient rights of way to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain DISTRICT DRAINAGE FACILITIES.

6. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES as being complete.

7. Not grant any occupancy permits for any units within any portion of Tract No. 31736-1, or any phase thereof, until construction of PROJECT is complete, unless otherwise approved in writing by DISTRICT.

SECTION IV

It is further mutually agreed:

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

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

1 3. DEVELOPER shall complete construction of DISTRICT DRAINAGE
2 FACILITIES within twelve (12) consecutive months after execution of this Agreement and
3 within one hundred twenty (120) consecutive calendar days after commencing work on
4 DISTRICT DRAINAGE FACILITIES. It is expressly understood that since time is of the
5 essence in this Agreement, failure of DEVELOPER to perform the work within the agreed upon
6 time shall constitute authority for DISTRICT to perform the remaining work and require
7 DEVELOPER'S surety to pay to CITY the penal sum of any and all bonds. In which case,
8 CITY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.
9

10 4. DEVELOPER and DISTRICT knowingly and voluntarily, waive the
11 provisions of Government Code Section 65913.8, relating to fees and charges. Such waiver is
12 accomplished with the understanding that DISTRICT is voluntarily undertaking the obligation
13 to accept ownership and responsibility for the operation and maintenance of DISTRICT
14 DRAINAGE FACILITIES, and DEVELOPER is not required by DISTRICT to enter into this
15 Agreement. DEVELOPER shall not request DISTRICT to accept any portion or portions of
16 DISTRICT DRAINAGE FACILITIES or CITY to accept any portion or portions of
17 APPURTENANCES prior to the completion of PROJECT construction.
18

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

24 In the event DEVELOPER wishes to expedite issuance of a Notice to
25 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at
26 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation
27 of the individual's credentials and experience to DISTRICT for review and, if appropriate,
28

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

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

23 7. DISTRICT acceptance of "Knox box" keys or other means of access
24 through DEVELOPER'S security gates or other devices as set forth in Section I.22. shall place
25 no liability upon DISTRICT in the event that such "Knox box" keys or other means of access
26 fails to function or be unavailable for any reason during an emergency situation and DISTRICT
27
28

1 is forced to damage or remove any such security gates or other devices to gain access to
2 DISTRICT DRAINAGE FACILITIES. DEVELOPER shall be solely responsible for any and
3 all necessary repairs to such security gates or other devices and all related costs resulting from
4 any such emergency access by DISTRICT.

5 8. Prior to DISTRICT acceptance of ownership and responsibility for the
6 operation and maintenance of DISTRICT DRAINAGE FACILITIES, PROJECT shall be in a
7 satisfactorily maintained condition as solely determined by DISTRICT.

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

20 DEVELOPER shall defend, at its sole expense, including all costs and fees
21 (including but not limited to attorney fees, cost of investigation, defense and settlements or
22 awards), DISTRICT, County of Riverside and CITY (including their agencies, districts, special
23 districts and departments, their respective directors, officers, Board of Supervisors, elected and
24
25
26
27
28

1 appointed officials, employees, agents and representatives) in any claim, proceeding or action
2 for which indemnification is required.

3 With respect to any of DEVELOPER'S indemnification requirements,
4 DEVELOPER shall, at its sole cost, have the right to use counsel of its own choice and shall
5 have the right to adjust, settle, or compromise any such claim, proceeding or action without the
6 prior consent of DISTRICT, County of Riverside and CITY; provided, however, that any such
7 adjustment, settlement or compromise in no manner whatsoever limits or circumscribes
8 DEVELOPER'S indemnification obligations to DISTRICT, County of Riverside or CITY.
9

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

14 The specified insurance limits required in this Agreement shall in no way
15 limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT,
16 County of Riverside and CITY from third party claims.
17

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

22 10. Any waiver by DISTRICT or by CITY of any breach of any one or more of
23 the terms of this Agreement shall not be construed to be a waiver of any subsequent or other
24 breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to
25 require exact, full and complete compliance with any terms of this Agreement shall not be
26
27
28

1 construed as in any manner changing the terms hereof, or estopping DISTRICT or CITY from
2 enforcement hereof.

3 11. If any provision in this Agreement (with the exception of Section IV.4.) is
4 held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining
5 provisions will nevertheless continue in full force without being impaired or invalidated in any
6 way. Should it be held by a court of competent jurisdiction that any portion of Section IV.4. is
7 invalid, void, or unenforceable, the provisions of Government Code Section 65913.8(b) shall
8 apply. It shall, therefore, be determined that this fee is extended for a period of ten years,
9 commencing upon DISTRICT'S acceptance of DISTRICT DRAINAGE FACILITIES for
10 ownership, operation and maintenance.
11

12 12. DISTRICT and CITY each pledge to cooperate in regard to the operation
13 and maintenance of their respective facilities as set forth herein and to discharge their respective
14 maintenance responsibilities in an expeditious fashion so as to avoid the creation of any
15 nuisance condition or undue maintenance impact upon the others' facilities.
16

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

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

21 RIVERSIDE COUNTY FLOOD CONTROL
22 AND WATER CONSERVATION DISTRICT
23 1995 Market Street
Riverside, CA 92501

CITY OF WILDOMAR
23873 Clinton Keith Road, Suite 201
Wildomar, CA 92595
Attn: Director of Public Works

24 OAK SPRINGS RANCH, LLC
25 5780 Fleet Street, Suite 130
Carlsbad, CA 92008
Attn: E. Garth Erdossy

26 15. Any action at law or in equity brought by any of the parties hereto for the
27 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court of
28

1 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
2 waive all provisions of law providing for a change of venue in such proceedings to any other
3 county.

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

9
10 17. The rights and obligations of DEVELOPER shall inure to and be binding
11 upon all heirs, successors and assignees.

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

17
18 19. The individual(s) executing this Agreement on behalf of DEVELOPER
19 hereby certify that they have the authority within their respective company(ies) to enter into and
20 execute this Agreement, and have been authorized to do so by any and all boards of directors,
21 legal counsel, and or any other board, committee or other entity within their respective
22 company(ies) which have the authority to authorize or deny entering this Agreement.

23
24 20. This Agreement is intended by the parties hereto as a final expression of
25 their understanding with respect to the subject matter hereof and as a complete and exclusive
26 statement of the terms and conditions thereof and supersedes any and all prior and
27
28

1 contemporaneous agreements and understandings, oral or written, in connection therewith. This
2 Agreement may be changed or modified only upon the written consent of the parties hereto.

3 //

4 //


5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

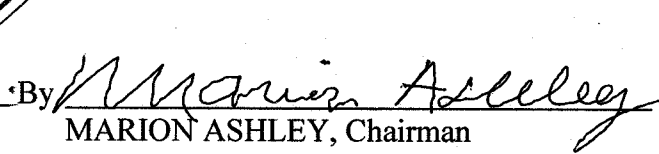
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOV 06 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

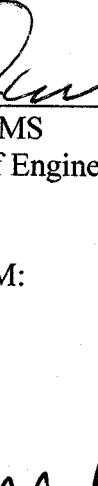
By 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water Conservation District Board of Supervisors


APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 
NEAL KIPNIS
Deputy County Counsel

By 
Deputy

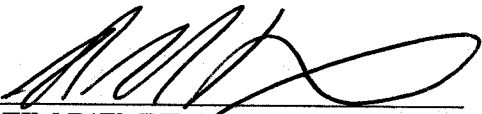
(SEAL)

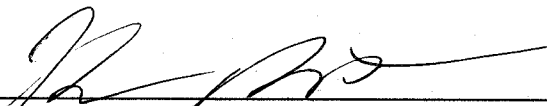
Cooperative Agreement: TR 31736-1
KEC:blj
9/11/12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CITY OF WILDOMAR

RECOMMENDED FOR APPROVAL:


By 
TIM D'ZMURA, P.E.
Director of Public Works & City Engineer

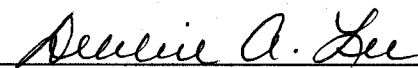
By 
BEN J. BENOIT
Mayor

APPROVED AS TO FORM:

ATTEST:

DEBBIE A. LEE

By 
THOMAS D. JEX
City Attorney

By 
Debbie A. Lee
City Clerk

(SEAL)

Cooperative Agreement: TR 31736-1
KEC:blj
9/11/2012

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

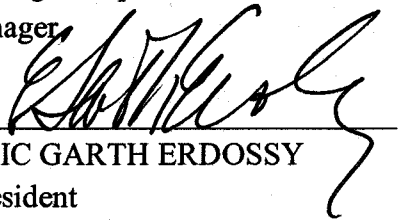
OAK SPRINGS RANCH, LLC,
a Delaware limited liability company

By: Oak Springs Ranch Member, LLC
A Delaware limited liability company
Its: Sole Member

By: GLJ Oak Springs Ranch, LLC
a Georgia limited liability company
Its: Managing Member

By: GLJ Corporation, Inc.,
a Georgia corporation

Its: Manager

By: 
ERIC GARTH ERDOSSY
President

(ATTACH NOTARY WITH
CAPACITY STATEMENT)

Cooperative Agreement: TR 31736-1
KEC:bjp
9/11/2012

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San Diego }

On Sept. 26, 2012 before me, Diane Nido, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Eric Garth Erdossy
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: Diane Nido
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Cooperative Agreement - Tract No. 31736-1

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Individual

Partner — Limited General

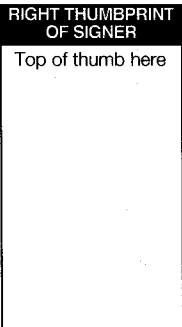
Attorney in Fact

Trustee

Guardian or Conservator

Other: _____

Signer Is Representing: _____



Signer's Name: _____

Corporate Officer — Title(s): _____

Individual

Partner — Limited General

Attorney in Fact

Trustee

Guardian or Conservator

Other: _____

Signer Is Representing: _____

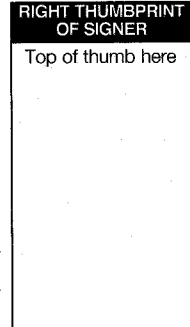


Exhibit A

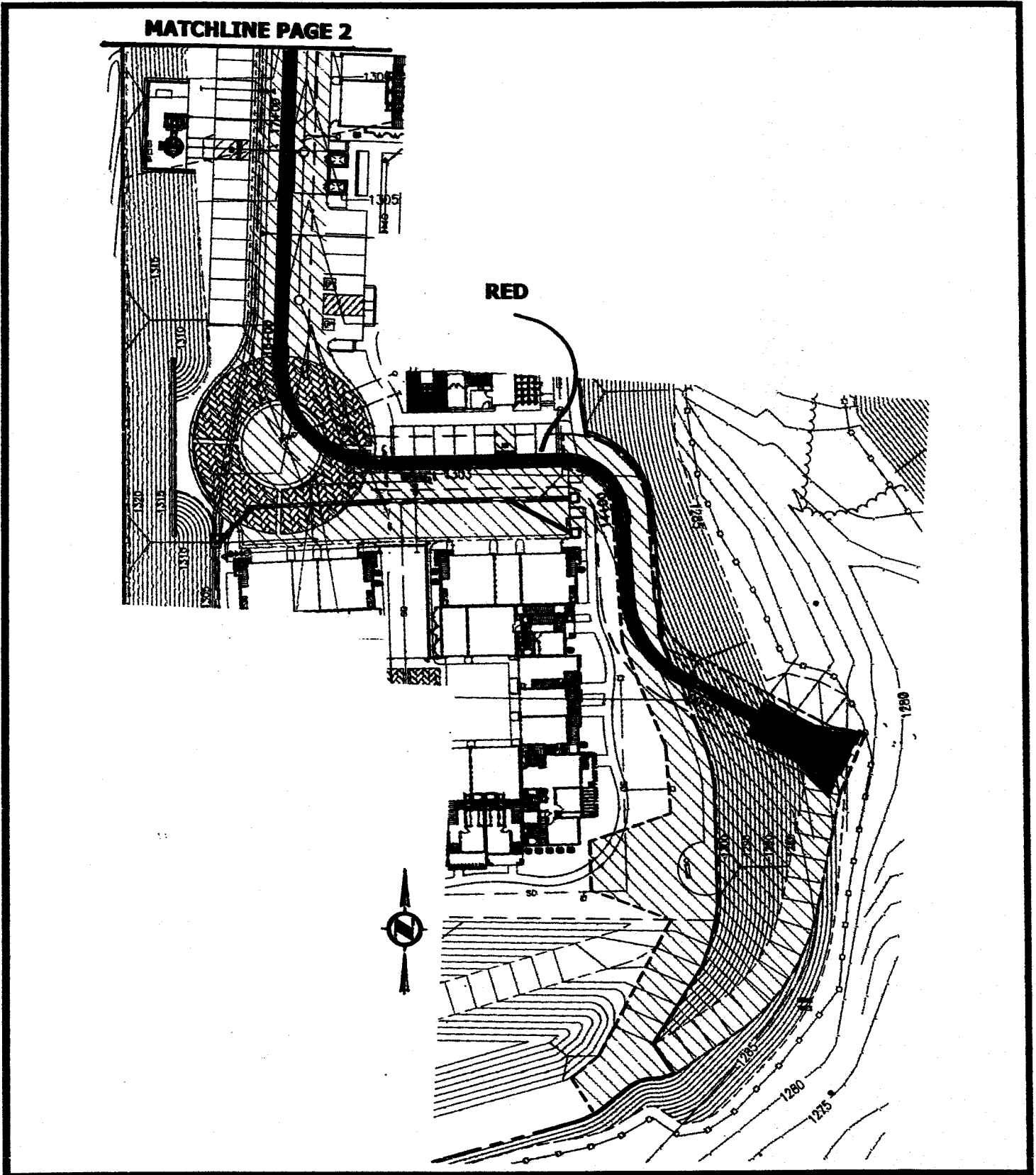
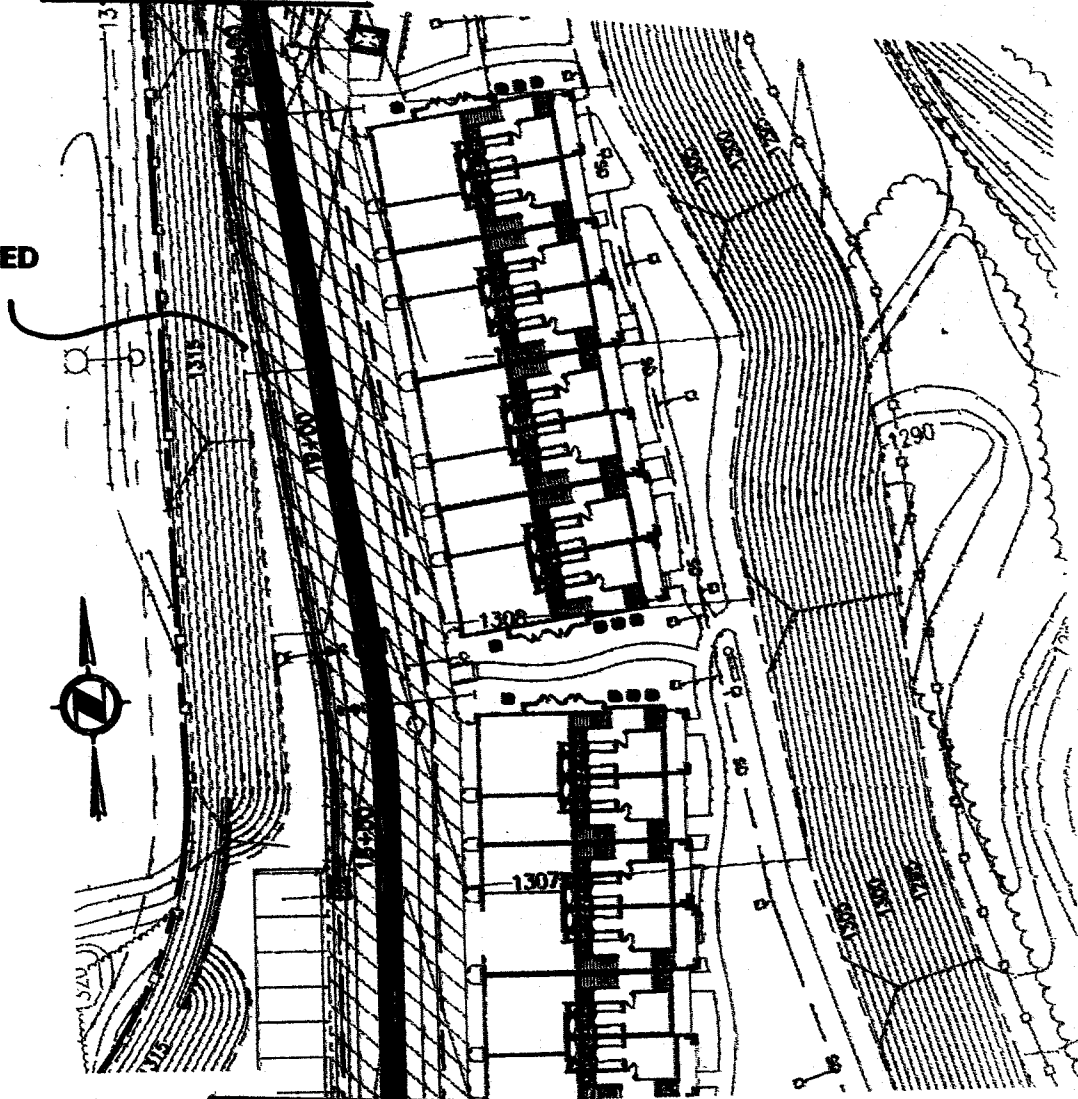


Exhibit A

MATCHLINE PAGE 3

RED



MATCHLINE PAGE 1

Exhibit A

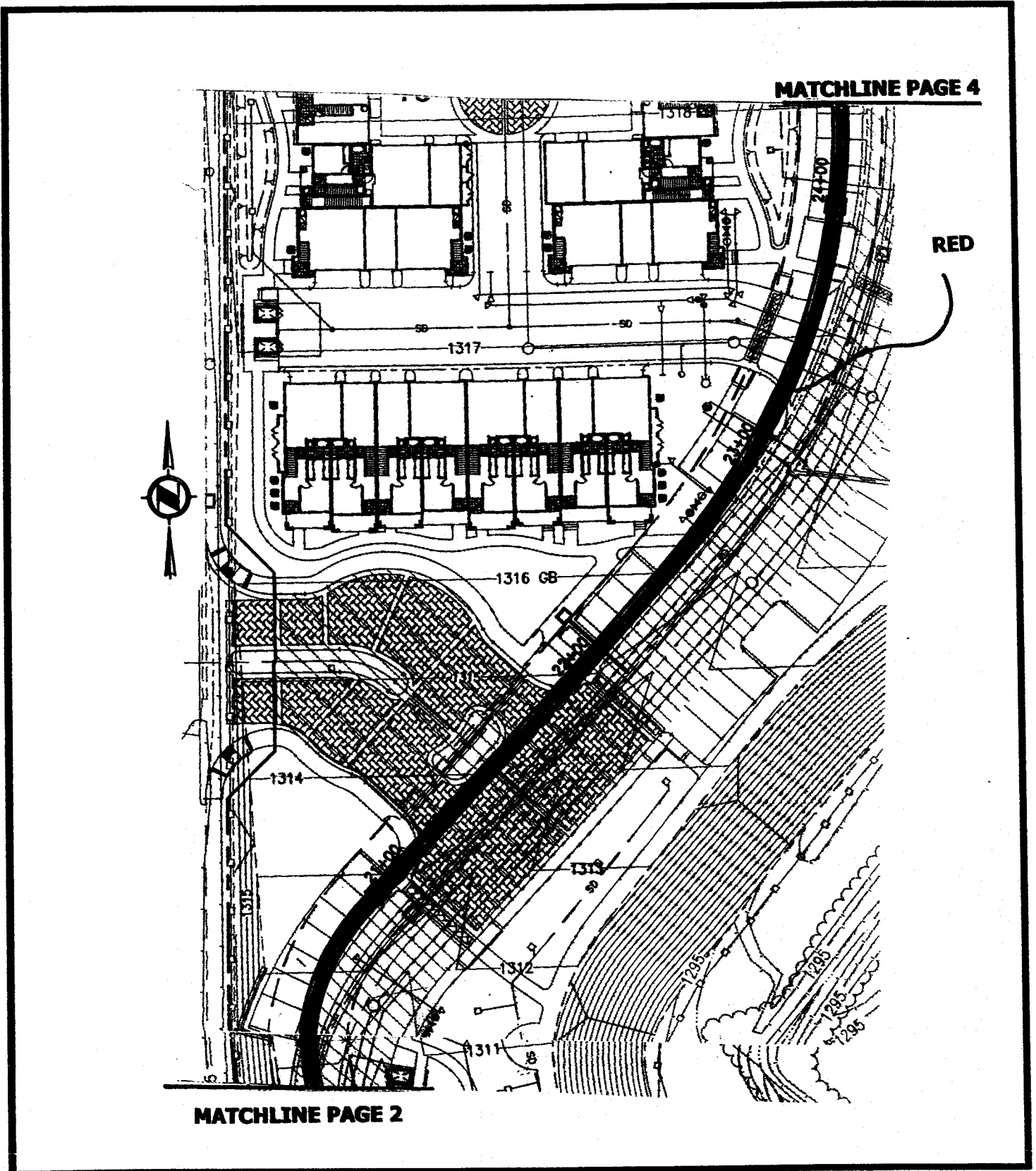


Exhibit A

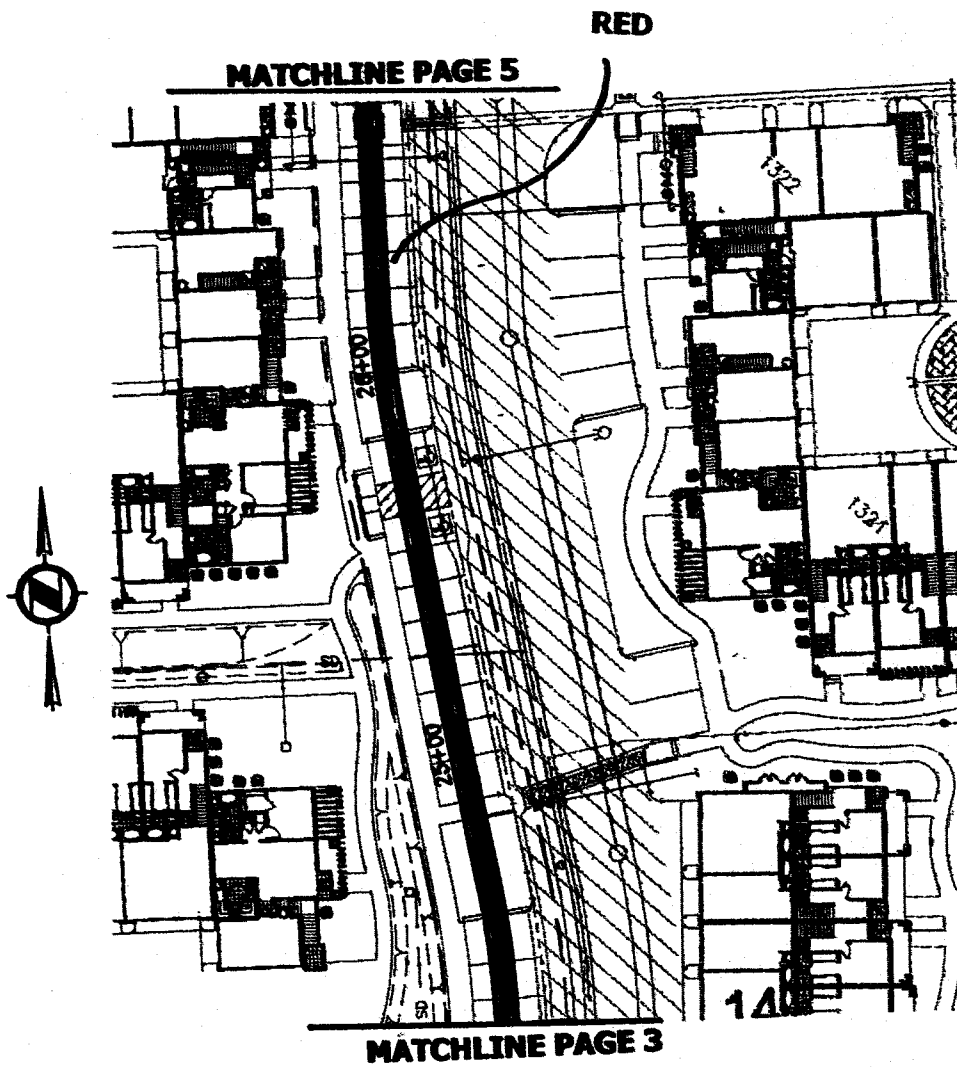
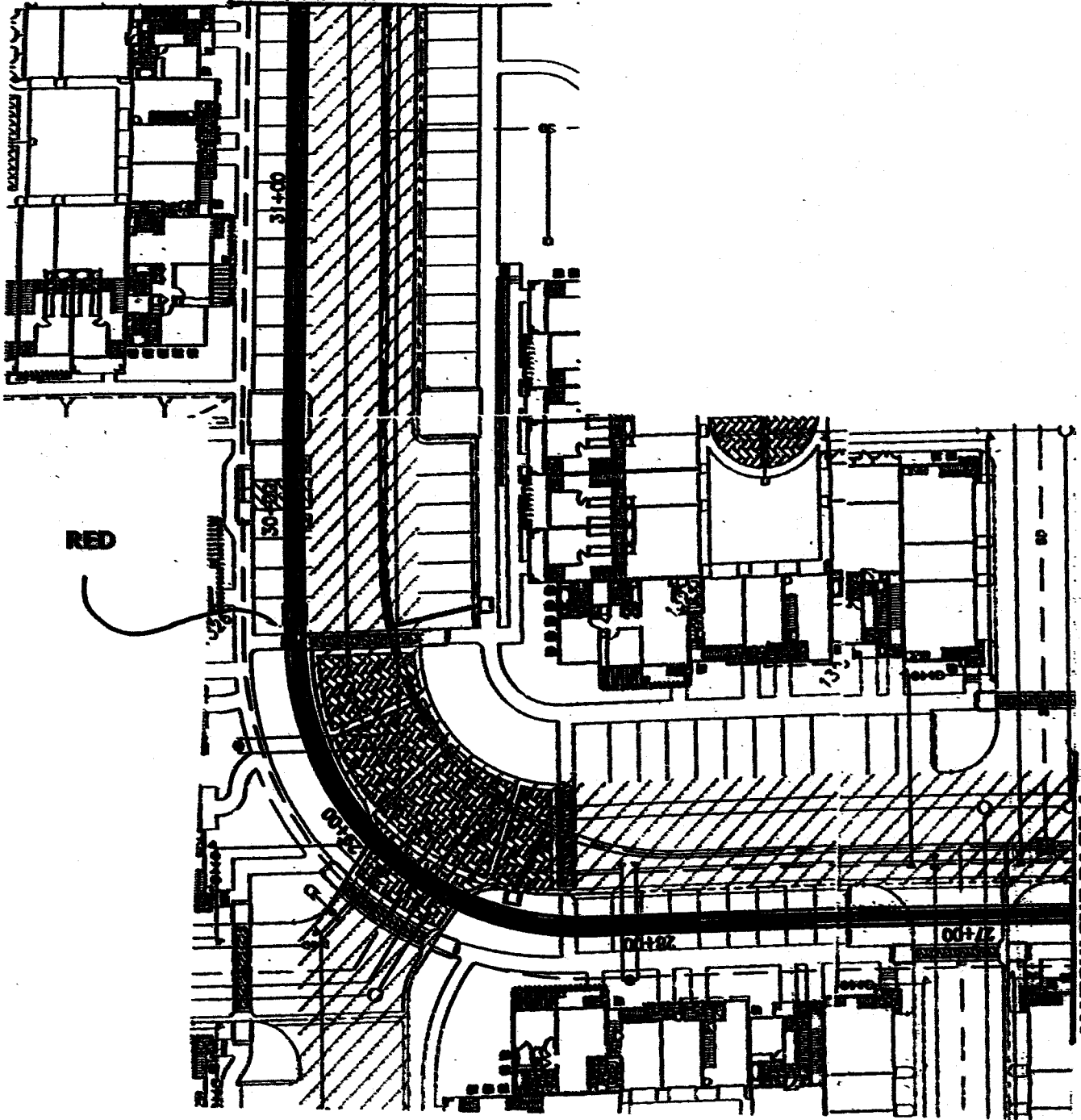


Exhibit A

MATCHLINE PAGE 6

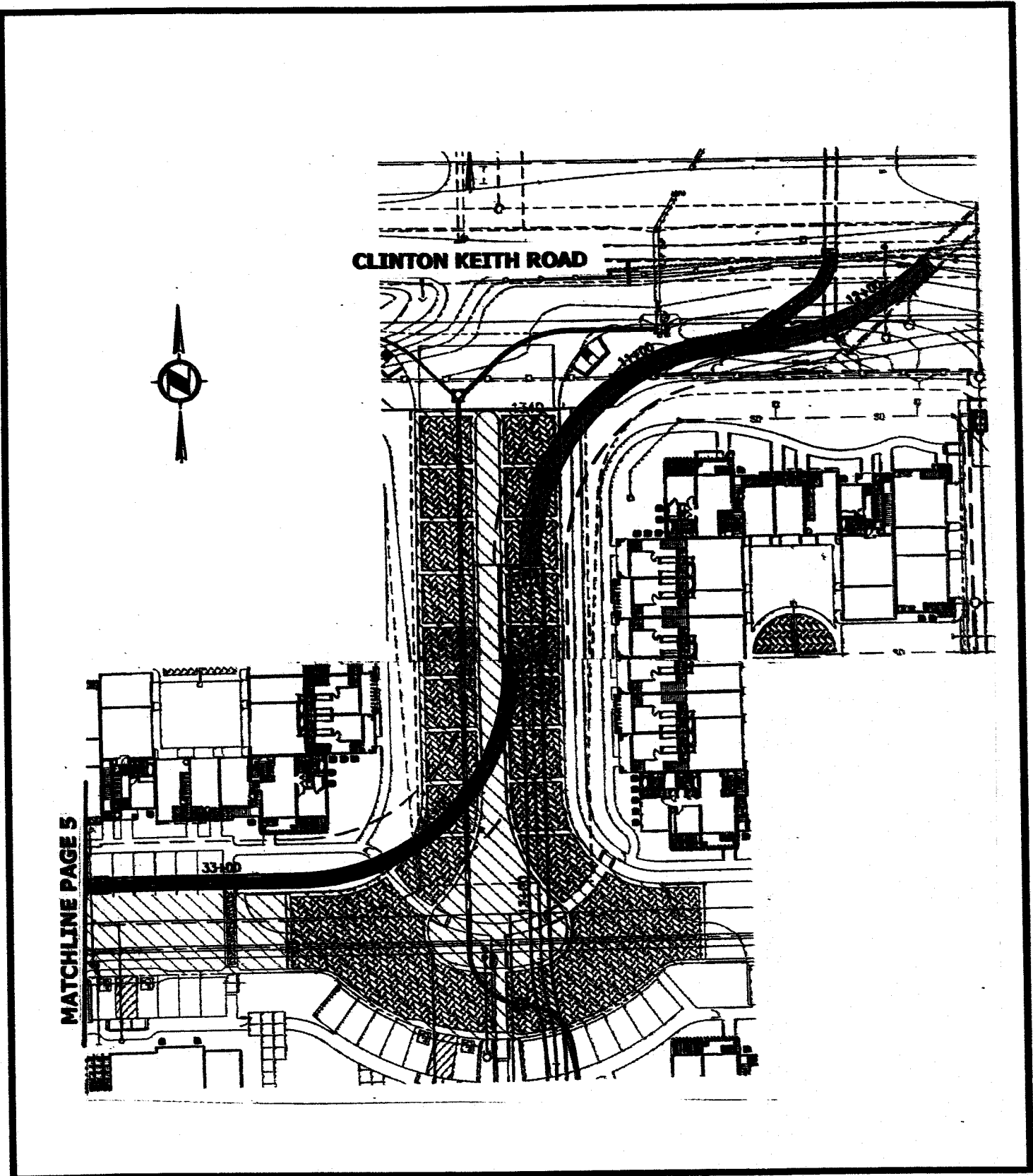


RED



MATCHLINE PAGE 4

Exhibit A



MATCHLINE PAGE 5

33400

Exhibit B

