

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS
 DATE: 3/5/15

Departmental Concurrence

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

714B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
 April 28, 2015

SUBJECT: Approval of Cooperative Agreement for Murrieta Valley – Greyhawk Road Storm Drain Stage 2 (Tract No. 32078), Project No. 7-0-00232, 1st District [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the District, the City of Wildomar (City) and Rancho Fortunado Inv, LLC (Developer); and
2. Authorize the Chairman to execute the Cooperative 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. 32078, are to be constructed by Developer and inspected, operated and maintained by the District and City.

Continued on Page 2

LMD:blm
 P8/168430

Warren D. Williams
 WARREN D. WILLIAMS
 General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	

SOURCE OF FUNDS: Developer is funding all construction and construction inspection costs. Budget Adjustment: N/A
 For Fiscal Year: N/A

C.E.O. RECOMMENDATION:

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

County Executive Office Signature

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

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Jeffries, Tavaglione, Washington and Ashley
 Nays: None
 Absent: Benoit
 Date: April 28, 2015
 xc: Flood

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

Prev. Agn. Ref.: District: 1st Agenda Number:

11-5

**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 Murrieta Valley – Greyhawk Road Storm Drain
Stage 2 (Tract No. 32078), Project No. 7-0-00232, 1st District [\$0]

DATE: April 28, 2015

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the referenced drainage facilities. Upon completion of the facilities' construction, District will assume ownership, operation and maintenance of the mainline storm drains, a lateral storm drain that is 24-inches in diameter and is located within District's right of way boundaries, channel embankment and associated access road. City will assume ownership and maintenance of all storm drain laterals and connector pipes that are 36-inches or less in diameter and drainage facilities' associated appurtenances such as catch basins, inlets, etc., located within City's right of way boundaries.

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

Impact on Residents and Businesses

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

SUPPLEMENTAL:

Additional Fiscal Information

Developer is funding all construction and construction inspection costs. Future operation and maintenance costs for the mainline storm drains, a certain 24-inch lateral, channel embankment and associated access road will accrue to District.

However, Developer is making a one-time payment to District's Zone 7 Maintenance Trust Fund to defray District's estimated future operation and maintenance costs for these drainage facilities for a period of ten (10) years.

ATTACHMENTS:

1. Cooperative Agreement

1 COOPERATIVE AGREEMENT
2 Murrieta Valley – Greyhawk Road Storm Drain Stage 2
3 Project No. 7-0-00232
4 Tract No. 32078

5 The Riverside County Flood Control and Water Conservation District,
6 hereinafter called "DISTRICT", the City of Wildomar, hereinafter called "CITY", and Rancho
7 Fortunado Inv, LLC, a Delaware limited liability company, hereinafter called "DEVELOPER",
8 hereby agree as follows:

9 RECITALS

10 A. DEVELOPER has submitted for approval Tract No. 32078 located in the
11 City of Wildomar. As a condition of approval for Tract No. 32078, DEVELOPER must
12 construct certain flood control facilities in order to provide flood protection and drainage for
13 DEVELOPER'S planned development; and

14 B. The legal description of Tract No. 32078 is provided in Exhibit "A"
15 attached hereto and made a part hereof; and

16 C. The required flood control facilities, all as shown on District Drawing No.
17 7-0424, include construction of (i) approximately 1,000 lineal feet of reinforced concrete pipe
18 and its associated outlet and transition structures, hereinafter called "GREYHAWK ROAD
19 STORM DRAIN STAGE 2", as shown in concept in red on Exhibit "B" attached hereto and
20 made a part hereof; (ii) approximately 60 lineal feet of 24-inch reinforced concrete pipe,
21 hereinafter called "DISTRICT LATERAL", as shown in concept in yellow on Exhibit "B"; (iii)
22 approximately 200 lineal feet of channel embankment and its associated 15-foot wide
23 maintenance access road at the top and a 15-foot wide maintenance access ramp with
24 turnaround at the toe, hereinafter called "ONSITE EMBANKMENT AND ACCESS ROADS",
25 as shown in concept in blue on Exhibit "B"; and (iv) approximately 120 lineal feet of channel
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APR 28 2015 11-5

1 embankment and its associated maintenance access road at the top, hereinafter called "OFFSITE
2 EMBANKMENT AND ACCESS ROAD", as shown in concept in green on Exhibit "B".
3 Together, GREYHAWK ROAD STORM DRAIN STAGE 2, DISTRICT LATERAL, ONSITE
4 EMBANKMENT AND ACCESS ROADS, and OFFSITE EMBANKMENT AND ACCESS
5 ROAD are hereinafter called "DISTRICT DRAINAGE FACILITIES"; and
6

7 D. Associated with the construction of DISTRICT DRAINAGE FACILITIES
8 is the construction of a certain underground storm drain lateral and a connector pipe, both of
9 which are 36-inches or less in diameter, located within CITY held easements or rights of way,
10 hereinafter called "APPURTENANCES". Together, DISTRICT DRAINAGE FACILITIES and
11 APPURTENANCES are hereinafter called "PROJECT"; and
12

13 E. At its downstream terminus, GREYHAWK ROAD STORM DRAIN
14 STAGE 2 will discharge into DISTRICT'S existing interim Wildomar Channel Stage 3 (District
15 As-built Drawing No. 7-0094), as shown on District Drawing No. 7-0424 (Sheet No. 5); and
16

17 F. At its upstream terminus, GREYHAWK ROAD STORM DRAIN STAGE
18 2 will connect to the Greyhawk Road Storm Drain Stage 1, hereinafter called "STAGE 1",
19 which was constructed in conjunction with Tract No. 31353 pursuant to a separate Right of
20 Entry and Inspection Agreement between DISTRICT and Meritage Homes of California, Inc., a
21 California corporation. Said Right of Entry and Inspection Agreement is hereinafter called the
22 "INSPECTION AGREEMENT"; and
23

24 G. STAGE 1 has not been accepted by DISTRICT for ownership, operation
25 and maintenance; and
26

27 H. DEVELOPER and CITY desire DISTRICT to accept ownership and
28 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.
Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications for

1 PROJECT and subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES;
2 and

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

8 J. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and
9 specifications for DISTRICT DRAINAGE FACILITIES, (ii) inspect the construction of
10 DISTRICT DRAINAGE FACILITIES, and (iii) accept ownership and responsibility for the
11 operation and maintenance of DISTRICT DRAINAGE FACILITIES, provided DEVELOPER
12 (i) complies with this Agreement, (ii) pays DISTRICT the amount specified herein to cover
13 DISTRICT'S plan review and construction inspection costs for PROJECT, (iii) pays DISTRICT
14 the amount specified herein to cover DISTRICT'S estimated cost to operate and maintain
15 DISTRICT DRAINAGE FACILITIES for a period of ten (10) years commencing upon
16 DISTRICT'S acceptance of DISTRICT DRAINAGE FACILITIES as complete for ownership,
17 operation and maintenance, (iv) constructs PROJECT in accordance with DISTRICT and CITY
18 approved plans and specifications, (v) obtains and conveys to DISTRICT the necessary rights of
19 way for the operation and maintenance of DISTRICT DRAINAGE FACILITIES as set forth
20 herein, (vi) accepts ownership and responsibility for the operation and maintenance of
21 PROJECT following completion of PROJECT construction until such time as (a) DISTRICT
22 accepts ownership and responsibility for the operation and maintenance of STAGE 1 and
23 DISTRICT DRAINAGE FACILITIES, and (b) CITY accepts ownership and responsibility for
24 the operation and maintenance of APPURTENANCES; and
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1 K. CITY is willing to (i) review and approve DEVELOPER'S plans and
2 specifications for PROJECT, (ii) inspect the construction of PROJECT, (iii) accept and hold
3 faithful performance and payment bonds submitted by DEVELOPER for DISTRICT
4 DRAINAGE FACILITIES, (iv) grant DISTRICT the right to inspect, operate and maintain
5 DISTRICT DRAINAGE FACILITIES within CITY rights of way, (v) consent to the
6 recordation and conveyance of the Irrevocable Offer(s) of Dedication furnished by
7 DEVELOPER as provided herein, and (vi) accept ownership and responsibility for the operation
8 and maintenance of APPURTENANCES, provided PROJECT is constructed in accordance with
9 DISTRICT and CITY approved plans and specifications; and

11 L. Multiple legal actions, hereinafter called "LITIGATION", have been filed
12 relating to CITY'S environmental review of Tract No. 32078. LITIGATION requests a writ of
13 mandate requiring CITY to set aside its approvals.

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

16 SECTION I

17 DEVELOPER shall:

18 1. Prepare PROJECT plans and specifications, hereinafter called
19 "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and CITY standards,
20 and submit to DISTRICT and CITY for their respective 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 rights of way and conveyance documents, and with the
26 processing and administration of this Agreement.

1 3. Deposit with DISTRICT (Attention: Business Office – Accounts
2 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT
3 construction as set forth in Section I.8. herein, the estimated cost of providing construction
4 inspection for DISTRICT DRAINAGE FACILITIES, in an amount as determined and approved
5 by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the County of Riverside,
6 including any amendments thereto, based upon the bonded value of DISTRICT DRAINAGE
7 FACILITIES. If at any time the costs exceed the deposit or are anticipated by DISTRICT to
8 exceed the deposit with DISTRICT, DEVELOPER shall pay such additional amount(s), as
9 deemed reasonably necessary by DISTRICT to complete inspection of DISTRICT DRAINAGE
10 FACILITIES, within thirty (30) days after receipt of billing from DISTRICT.
11

12 4. Pay DISTRICT, upon execution of this Agreement, the one-time cash sum
13 of eleven thousand seven hundred dollars (\$11,700), the amount agreed upon to cover
14 DISTRICT'S estimated cost to operate and maintain DISTRICT DRAINAGE FACILITIES for
15 a period of ten (10) years (Zone 7 - Maintenance Trust Fund) commencing upon DISTRICT'S
16 acceptance of DISTRICT DRAINAGE FACILITIES as complete for ownership, operation and
17 maintenance.
18

19 5. Secure, at its sole cost and expense, all necessary licenses, agreements,
20 permits and rights of entry as may be needed for the construction, inspection, operation and
21 maintenance of PROJECT. DEVELOPER shall furnish DISTRICT, at the time of providing
22 written notice to DISTRICT of the start of construction as set forth in Section I.8. or not less
23 than twenty (20) days prior to recordation of the final map for Tract No. 32078 or any phase
24 thereof, whichever occurs first, with sufficient evidence of DEVELOPER having secured such
25 necessary licenses, agreements, permits and rights of entry, as determined and approved by
26 DISTRICT.
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1 6. Furnish DISTRICT with copies of all permits, approvals or agreements
2 required by any Federal, State or local resource and/or regulatory agency for the construction,
3 operation and maintenance of DISTRICT DRAINAGE FACILITIES. Such documents include
4 but are not limited to those issued by the U.S. Army Corps of Engineers, California Regional
5 Water Quality Control Board, California State Department of Fish and Wildlife, State Water
6 Resources Control Board, and Western Riverside County Regional Conservation Authority.
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8 7. Provide CITY, at the time of providing written notice to DISTRICT of the
9 start of construction as set forth in Section I.8. or not less than twenty (20) days prior to
10 recordation of the final map for Tract No. 32078 or any phase thereof, whichever occurs first,
11 with faithful performance and payment bonds, each in the amount of one hundred percent
12 (100%) of the estimated cost for construction of DISTRICT DRAINAGE FACILITIES as
13 determined by DISTRICT. The surety, amount and form of the bonds, shall be subject to
14 approval of DISTRICT and CITY. The bonds shall remain in full force and effect until
15 DISTRICT DRAINAGE FACILITIES are accepted by DISTRICT as complete; at which time
16 the bond amount may be reduced to five percent (5%) for a period of one year to guarantee
17 against any defective work, labor or materials.
18

19 8. Notify DISTRICT in writing (Attention: Administrative Services Section),
20 at least twenty (20) days prior to the start of construction of PROJECT. Construction shall not
21 begin on any element of PROJECT, for any reason whatsoever, until DISTRICT has issued to
22 DEVELOPER a written Notice to Proceed authorizing DEVELOPER to commence
23 construction of PROJECT.
24

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

3 10. Obtain and provide DISTRICT, at the time of providing written notice to
4 DISTRICT of the start of construction of PROJECT as set forth in Section I.8. or not less than
5 twenty (20) days prior to the recordation of the final map for Tract No. 32078 or any phase
6 thereof, whichever occurs first, with duly executed Irrevocable Offers(s) of Dedication to the
7 public for flood control and drainage purposes, including ingress and egress, for the rights of
8 way deemed necessary by DISTRICT for the construction, inspection, operation and
9 maintenance of DISTRICT DRAINAGE FACILITIES. The Irrevocable Offer(s) of Dedication
10 shall be in a form approved by DISTRICT and shall be executed by all legal and equitable
11 owners of the property described in the offer(s).
12

13 11. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of
14 Dedication as set forth in Section I.10., with Preliminary Reports on Title dated not more than
15 thirty (30) days prior to date of submission of all the property described in the Irrevocable
16 Offer(s) of Dedication.
17

18 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
19 the start of construction as set forth in Section I.8., with a complete list of all contractors and
20 subcontractors to be performing work on DISTRICT DRAINAGE FACILITIES, including the
21 corresponding license number and license classification of each. At such time, DEVELOPER
22 shall further identify in writing its designated superintendent for PROJECT construction.
23

24 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
25 the start of construction as set forth in Section I.8., a construction schedule which shall show the
26 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out the
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1 various parts of work, including estimated start and completion dates. As construction of
2 DISTRICT DRAINAGE FACILITIES progresses, DEVELOPER shall update said construction
3 schedule as requested by DISTRICT.

4 14. Furnish DISTRICT with final mylar PROJECT plans and assign their
5 ownership to DISTRICT prior to the start of PROJECT construction.

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

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

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

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

22 19. Commencing on the date notice is given pursuant to Section I.8., and
23 continuing until DISTRICT accepts DISTRICT DRAINAGE FACILITIES and CITY accepts
24 APPURTENANCES for ownership, operation and maintenance:
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1 (a) Provide and maintain or cause its contractor(s) to provide and maintain
2 comprehensive liability insurance coverage which shall protect
3 DEVELOPER from claims from damages for personal injury, including
4 accidental and wrongful death, as well as from claims for property damage
5 which may arise from DEVELOPER'S construction of PROJECT or the
6 performance of its obligations hereunder, whether such construction or
7 performance be by DEVELOPER, by any of its contractors, subcontractors,
8 or by anyone employed directly or indirectly by any of them. Such
9 insurance shall name DISTRICT, the County of Riverside and CITY as
10 additional insureds with respect to this Agreement and the obligations of
11 DEVELOPER hereunder. Such insurance shall provide for limits of not less
12 than two million dollars (\$2,000,000) per occurrence.

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

5 Failure to maintain the insurance required by this paragraph shall be deemed a
6 material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at
7 its sole discretion, to proceed to perform the remaining work pursuant to Section IV.3.
8

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

12 21. Within two (2) weeks of completing PROJECT construction, provide
13 DISTRICT with written notice (Attention: Development Review Section) that PROJECT
14 construction is substantially complete and requesting that DISTRICT conduct a final inspection
15 of DISTRICT DRAINAGE FACILITIES.
16

17 22. Upon completion of PROJECT construction, and upon acceptance by CITY
18 of all rights of way deemed necessary by DISTRICT and CITY for the operation and
19 maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT DRAINAGE
20 FACILITIES for ownership, operation and maintenance, convey, or cause to be conveyed to
21 DISTRICT (i) the flood control easement(s) including ingress and egress, in a form approved by
22 DISTRICT, to the rights of way as shown in concept cross-hatched in orange on Exhibit "C",
23 and (ii) fee simple title, in a form approved by DISTRICT, to the rights of way as shown in
24 concept in solid orange on Exhibit "C".
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26 23. At the time of recordation of the conveyance document(s), as set forth in
27 Section I.22.(i), furnish DISTRICT with policies of title insurance, each in the amount of not
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1 less than fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
2 easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
3 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
4 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
5 deemed acceptable.

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7 24. At the time of recordation of the conveyance document(s), as set forth in
8 Section I.22.(ii), furnish DISTRICT with policies of title insurance, each in the amount of not
9 less than one hundred percent (100%) of the estimated fee value, as determined by DISTRICT,
10 for each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
11 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
12 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
13 deemed acceptable.

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15 25. Accept ownership and sole responsibility for the operation and maintenance
16 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
17 and maintenance of STAGE 1 and DISTRICT DRAINAGE FACILITIES and CITY accepts
18 ownership and responsibility for operation and maintenance of APPURTENANCES. Further, it
19 is mutually understood by the parties hereto that prior to DISTRICT acceptance of ownership
20 and responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES,
21 PROJECT shall be in a satisfactorily maintained condition as solely determined by DISTRICT.
22 If, subsequent to the inspection and, in the sole discretion of DISTRICT, DISTRICT
23 DRAINAGE FACILITIES are not in an acceptable condition, corrections shall be made at sole
24 expense of DEVELOPER.

25
26 26. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
27 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable
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1 4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication
2 provided by DEVELOPER pursuant to Section I.10.

3 5. Inspect DISTRICT DRAINAGE FACILITIES construction.

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

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

15 8. Accept ownership and sole responsibility for the operation and maintenance
16 of DISTRICT DRAINAGE FACILITIES upon (i) DISTRICT inspection of DISTRICT
17 DRAINAGE FACILITIES in accordance with Section I.21., (ii) DISTRICT acceptance of
18 DISTRICT DRAINAGE FACILITIES construction as being complete, (iii) DISTRICT receipt
19 of stamped and signed "record drawings" of PROJECT plans, as set forth in Section I.27., (iv)
20 recordation of all conveyance documents described in Section I.22., (v) CITY acceptance of all
21 necessary street rights of way as deemed necessary by DISTRICT and CITY for the operation
22 and maintenance of PROJECT, (vi) CITY acceptance of APPURTENANCES for ownership,
23 operation, and maintenance, (vii) DISTRICT'S sole determination that DISTRICT DRAINAGE
24 FACILITIES are in a satisfactorily maintained condition, and (viii) DISTRICT acceptance of
25 STAGE 1 for ownership, operation and maintenance.
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1 4. If DEVELOPER fails to commence construction of PROJECT within nine
2 (9) months after execution of this Agreement, then DISTRICT reserves the right to withhold
3 issuance of the Notice to Proceed pending a review of the existing site conditions as they exist at
4 the time DEVELOPER provides written notification to DISTRICT of the start of construction as
5 set forth in Section I.8. In the event of a change in the existing site conditions that materially
6 affects PROJECT function or DISTRICT'S ability to operate and maintain DISTRICT
7 DRAINAGE FACILITIES, DISTRICT may require DEVELOPER to modify IMPROVEMENT
8 PLANS as deemed necessary by DISTRICT.

10 5. Prior to DISTRICT'S acceptance of ownership and responsibility for the
11 operation and maintenance of DISTRICT DRAINAGE FACILITIES, DISTRICT DRAINAGE
12 FACILITIES shall be in a satisfactorily maintained condition as solely determined by
13 DISTRICT. If, in the sole discretion of DISTRICT, DISTRICT DRAINAGE FACILITIES are
14 not in acceptable condition, corrections shall be at DEVELOPER'S sole expense.

16 6. DEVELOPER and DISTRICT knowingly and voluntarily, waive the
17 provisions of Government Code Section 65913.8, relating to fees and charges. Such waiver is
18 accomplished with the understanding that DISTRICT is voluntarily undertaking the obligation
19 to accept ownership and responsibility for the operation and maintenance of DISTRICT
20 DRAINAGE FACILITIES, and DEVELOPER is not required by DISTRICT to enter into this
21 Agreement.

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

1 In the event DEVELOPER wishes to expedite issuance of a Notice to
2 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at
3 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation
4 of the individual's credentials and experience to DISTRICT for review and, if appropriate,
5 approval. DISTRICT shall review the individual's qualifications and experience, upon approval
6 thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized to act
7 on DISTRICT'S behalf on all DISTRICT DRAINAGE FACILITIES construction and quality
8 control matters. If DEVELOPER'S initial construction inspection deposit furnished pursuant to
9 Section I.3. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER
10 up to eighty percent (80%) of DEVELOPER'S initial inspection deposit within forty-five (45)
11 days of DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten
12 thousand dollars (\$10,000) shall be retained on account.
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15 8. PROJECT construction work shall be on a five (5) day, forty (40) hour
16 work week with no work on Saturdays, Sundays or DISTRICT designated legal holidays, unless
17 otherwise approved in writing by DISTRICT. If DEVELOPER feels it is necessary to work
18 more than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a
19 written request for permission from DISTRICT to work the additional hours. The request shall
20 be submitted to DISTRICT at least seventy-two (72) hours prior to the requested additional
21 work hours and state the reasons for the overtime and the specific time frames required. The
22 decision of granting permission for overtime work shall be made by DISTRICT at its sole
23 discretion and shall be final. If permission is granted by DISTRICT, DEVELOPER will be
24 charged the cost incurred at the overtime rates for additional inspection time required in
25 connection with the overtime work in accordance with Ordinance Nos. 671 and 749, including
26 any amendments thereto, of the County of Riverside.
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1 9. In the event that any claim or legal action is brought against DISTRICT in
 2 connection with this Agreement because of the actual or alleged acts or omissions by
 3 DEVELOPER, including but not limited to design, construction or failure of PROJECT,
 4 DEVELOPER shall defend, indemnify and hold DISTRICT harmless therefrom, without cost to
 5 DISTRICT. Upon DEVELOPER'S failure to do so, DISTRICT shall be entitled to recover from
 6 DEVELOPER all of its costs and expenses, including, but not limited to, reasonable attorneys'
 7 fees.
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9 10. DEVELOPER shall indemnify and hold harmless DISTRICT, County of
 10 Riverside, and CITY (including their agencies, districts, special districts and departments, their
 11 respective directors, officers, Board of Supervisors, elected and appointed officials, employees,
 12 agents and representatives) from any liability, claim, damage, proceeding or action, present or
 13 future, based upon, arising out of or in any way relating to this Cooperative Agreement,
 14 including but not limited to DEVELOPER'S (including its officers, employees, subcontractors
 15 and agents) actual or alleged acts or omissions related to this Cooperative Agreement,
 16 performance under this Cooperative Agreement, or failure to comply with the requirements of
 17 this Cooperative Agreement, and including but not limited to: (a) property damage; (b) bodily
 18 injury or death; (c) liability or damage pursuant to Article I, Section 19 of the California
 19 Constitution, the Fifth Amendment of the United States Constitution or any other law, ordinance
 20 or regulation caused by the diversion of waters from the natural drainage patterns or the
 21 discharge of drainage within or from PROJECT; or (d) any other element of any kind or nature
 22 whatsoever.
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25 DEVELOPER shall defend, at its sole expense, including all costs and fees
 26 (including but not limited to attorney fees, cost of investigation, defense and settlements or
 27 awards), DISTRICT, County of Riverside and CITY (including their agencies, districts, special
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1 districts and departments, their respective directors, officers, Board of Supervisors, elected and
2 appointed officials, employees, agents and representatives) in any claim proceeding or action for
3 which indemnification is required.

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

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

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

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

24 11. DEVELOPER for itself, its successors and assigns hereby releases
25 DISTRICT and CITY, their respective officers, agents, and employees from any and all claims,
26 demands, actions, or suits of any kind arising out of any liability, known or unknown, present or
27 future, including, but not limited to any claim or liability, based or asserted, pursuant to Article
28

1 I, Section 19 of the California Constitution, the Fifth Amendment of the United States
2 Constitution, or any other law or ordinance which seeks to impose any other liability or damage,
3 whatsoever, for damage caused by the discharge of drainage within or from PROJECT.
4 Nothing contained herein shall constitute a release by DEVELOPER of DISTRICT or CITY,
5 their officers, agents and employees from any and all claims, demands, actions or suits of any
6 kind arising out of any liability, known or unknown, present or future, for the negligent
7 maintenance of DISTRICT DRAINAGE FACILITIES and APPURTENANCES, after the
8 acceptance of DISTRICT DRAINAGE FACILITIES and APPURTENANCES by DISTRICT
9 and CITY, respectively.
10

11 12. This Cooperative Agreement shall be null and void in the event the
12 LITIGATION results in (i) the issuance of a writ of mandate setting aside CITY'S approvals
13 relating to Tract No. 32078, or (ii) court-ordered modifications of the project at issue in the
14 LITIGATION that would affect DISTRICT DRAINAGE FACILITIES or APPURTENANCES.
15

16 13. Any waiver by DISTRICT or by CITY of any breach of any one or more of
17 the terms of this Cooperative Agreement shall not be construed to be a waiver of any subsequent
18 or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or
19 CITY to require exact, full and complete compliance with any terms of this Cooperative
20 Agreement shall not be construed as in any manner changing the terms hereof, or estopping
21 DISTRICT or CITY from enforcement hereof.
22

23 14. If any provision in this Cooperative Agreement (with the exception of
24 Section IV.6.) is held by a court of competent jurisdiction to be invalid, void, or unenforceable,
25 the remaining provisions will nevertheless continue in full force without being impaired or
26 invalidated in any way. Should it be held by a court of competent jurisdiction that any portion
27 of Section IV.6. is invalid, void, or unenforceable, the provisions of Government Code
28

1 65913.8(b) shall apply. It shall, therefore, be determined that this fee is extended for a period of
2 ten years, commencing upon DISTRICT'S acceptance of DISTRICT DRAINAGE FACILITIES
3 for ownership, operation and maintenance.

4 15. This Cooperative Agreement is to be construed in accordance with the laws
5 of the State of California.

6 16. Any and all notices sent or required to be sent to the parties of this
7 Cooperative Agreement will be mailed by first class mail, postage prepaid, to the following
8 addresses:
9

10 RIVERSIDE COUNTY FLOOD CONTROL
11 AND WATER CONSERVATION DISTRICT
12 1995 Market Street
13 Riverside, CA 92501
14 Attn: Administrative Services Section

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

15 RANCHO FORTUNADO INV, LLC
16 3121 Michelson Drive, Suite 150
17 Irvine, CA 92612
18 Attn: Adam Smith

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

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

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

3 20. DEVELOPER shall not assign or otherwise transfer any of its rights, duties
4 or obligations hereunder to any person or entity without the written consent of the other parties
5 hereto being first obtained. In the event of any such transfer or assignment, DEVELOPER
6 expressly understands and agrees that it shall remain liable with respect to any and all of the
7 obligations and duties contained in this Cooperative Agreement.
8

9 21. The individual(s) executing this Cooperative Agreement on behalf of
10 DEVELOPER certify that they have the authority within their respective company(ies) to enter
11 into and execute this Cooperative Agreement, and have been authorized to do so by all boards of
12 directors, legal counsel, and/or any other board, committee or other entity within their respective
13 company(ies) which have the authority to authorize or deny entering into this Cooperative
14 Agreement.
15

16 22. This Cooperative Agreement is intended by the parties hereto as a final
17 expression of their understanding with respect to the subject matter hereof and as a complete
18 and exclusive statement of the terms and conditions thereof and supersedes any and all prior and
19 contemporaneous agreements and understandings, oral or written, in connection therewith. This
20 Cooperative Agreement may be changed or modified only upon the written consent of the
21 parties hereto.
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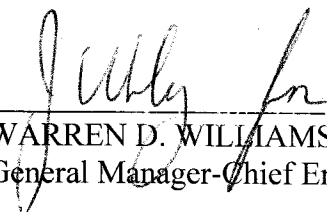
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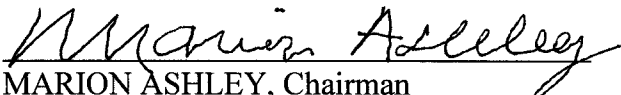
IN WITNESS WHEREOF, the parties hereto have executed this Cooperative

Agreement on APR 28 2015

(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

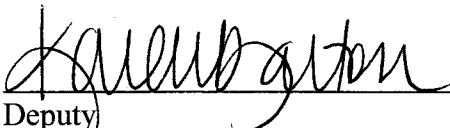
APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 
NEAL R. KIPNIS
Deputy County Counsel

By 
Deputy


(SEAL)

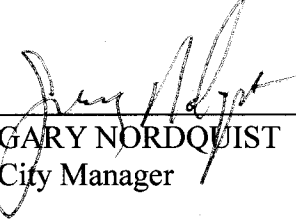
Cooperative Agreement:
Murrieta Valley – Greyhawk Road Storm Drain Stage 2
Project No. 7-0-00232
Tract No. 32078
02/25/15
TT:LMD:blm

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RECOMMENDED FOR APPROVAL:

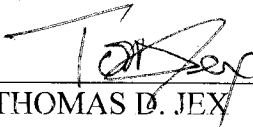
CITY OF WILDOMAR

By 
DAN YORK
Public Works Director/City Engineer

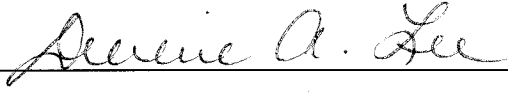
By 
GARY NORDQUIST
City Manager

APPROVED AS TO FORM:

ATTEST:

By 
THOMAS D. JEX
City Attorney

DEBBIE A. LEE
City Clerk

By 

(SEAL)

Cooperative Agreement:
Murrieta Valley – Greyhawk Road Storm Drain Stage 2
Project No. 7-0-00232
Tract No. 32078
02/25/15
TT:LMD:blm

RANCHO FORTUNADO INV, LLC
a Delaware limited liability company

By Adam Smith
ADAM SMITH
Authorized Person

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

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Cooperative Agreement:
Murrieta Valley – Greyhawk Road Storm Drain Stage 2
Project No. 7-0-00232
Tract No. 32078
02/25/15
TT:LMD:blm

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT
CIVIL CODE § 1189

State of California

County of Orange

On March 2, 2015 before me, Athena Bowyer, Notary Public
Date Here Insert Name and Title of the Officer

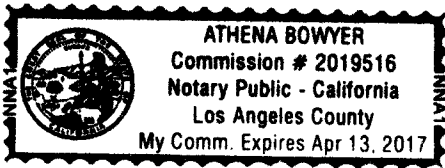
personally appeared Adam Smith
Name(s) of Signer(s)

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: Athena Bowyer
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: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer Is Representing: _____

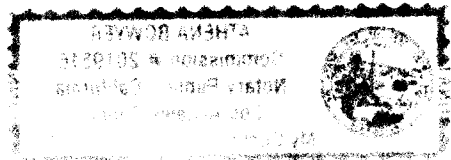


Exhibit A

LEGAL DESCRIPTION

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

PARCEL 1: (APN: 380-140-001-1)

THAT PORTION OF LOT 47 IN BLOCK "L" OF ELSINORE, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED OCTOBER 15, 1885 IN BOOK 4 PAGE 174, OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTER LINE OF HAND STREET (VACATED) AS SHOWN ON SAID MAP WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD RIGHT OF WAY AS SHOWN UPON THE MAP OF PARCEL MAP NO. 13471, RECORDED OCTOBER 3, 1979 IN BOOK 70, PAGE 56 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID RIVERSIDE COUNTY;

THENCE NORTH 49° 16' 06" WEST ALONG SAID NORTHEASTERLY LINE 476.67 FEET TO THE MOST WESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED TO HARRY I. HAGAN, ET UX., RECORDED NOVEMBER 21, 1963 AS INSTRUMENT NO. 123114, IN BOOK 3540, PAGE 202, OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, SAID CORNER BEING THE TRUE POINT OF BEGINNING;

THENCE NORTH 37° 07' 15" EAST ALONG THE NORTHWESTERLY LINE OF SAID HAGAN PARCEL 1194.90 FEET TO THE SOUTHWESTERLY LINE OF PALOMAR STREET AS SHOWN ON SAID MAP OF ELSINORE;

THENCE NORTH 49° 19' 27" WEST ALONG SAID SOUTHWESTERLY LINE OF PALOMAR STREET 179.89 FEET TO THE NORTHEASTERLY CORNER OF THE NORTHWESTERLY 33 FEET OF SAID LOT 47, SAID CORNER BEING THE MOST EASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED TO WAYNE O. HUTSON, ET UX., RECORDED JANUARY 25, 1957 AS INSTRUMENT NO. 6272, OF OFFICIAL RECORDS OF RIVERSIDE COUNTY;

THENCE SOUTH 37° 07' 10" WEST PARALLEL WITH THE NORTHWESTERLY LINE OF SAID LOT 47 TO THE SAID NORTHEASTERLY LINE OF SAID RAILROAD RIGHT OF WAY, SAID POINT BEING THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL 2 IN DEED TO ELLSWORTH BRANDENBURG, ET. UX., RECORDED MARCH 23, 1962 AS INSTRUMENT NO. 26774, IN BOOK 3103, PAGE 368 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY. THENCE SOUTH 49° 16' 06" EAST ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE 179.88 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2: (APN: 380-080-009-4)

THE SOUTHEASTERLY 247.82 FEET TO THE NORTHEASTERLY 824.00 FEET OF LOT 46 IN BLOCK "L" OF RANCHO LA LAGUNA, AS SHOWN BY MAP ON FILE IN BOOK 4, PAGE 174, OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA, ALSO THE NORTHWESTERLY 33 FEET OF THE NORTHEASTERLY 824.00 FEET OF LOT 47 OF SAID BLOCK "L".

PARCEL 3: (APN: 380-080-008-3)

THAT PORTION OF LOT 46 IN BLOCK "L" OF RANCHO LA LAGUNA AS SHOWN BY CERTIFICATE OF COMPLIANCE NO. 1366, RECORDED DECEMBER 5, 1980 AS INSTRUMENT NO. 228611 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTHWESTERLY 280.82 FEET OF THE SOUTHEASTERLY 528.64 FEET OF THE NORTHEASTERLY 824.00 FEET OF LOT 46 IN BLOCK "L" OF RANCHO LA LAGUNA, AS SHOWN BY MAP ON FILE IN BOOK 4 PAGE 174 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA.

COOPERATIVE AGREEMENT

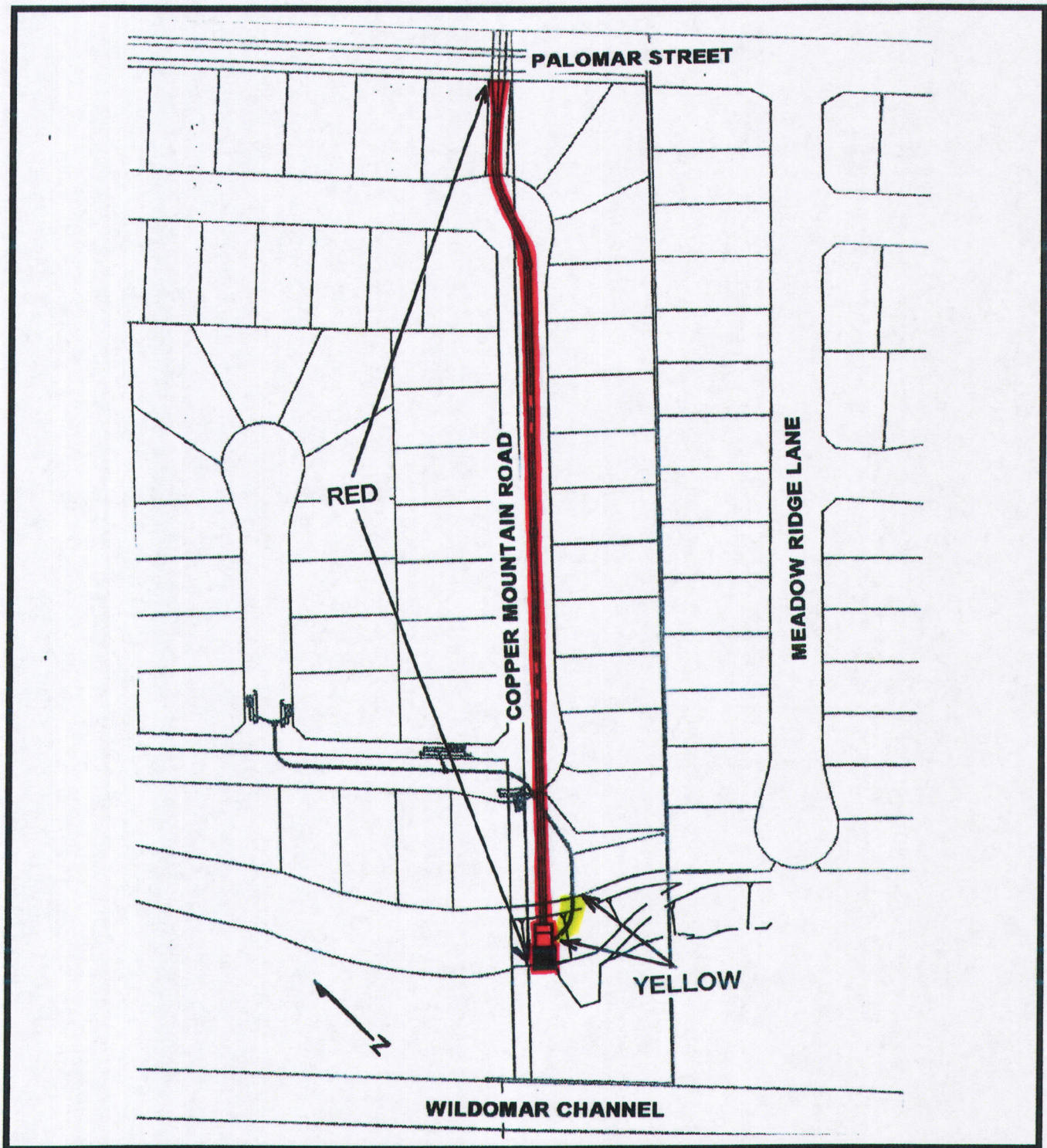
Murrieta Valley – Greyhawk Road Storm Drain Stage 2

Project No. 7-0-00232

Tract No. 32078

Page 1 of 1

Exhibit B



COOPERATIVE AGREEMENT

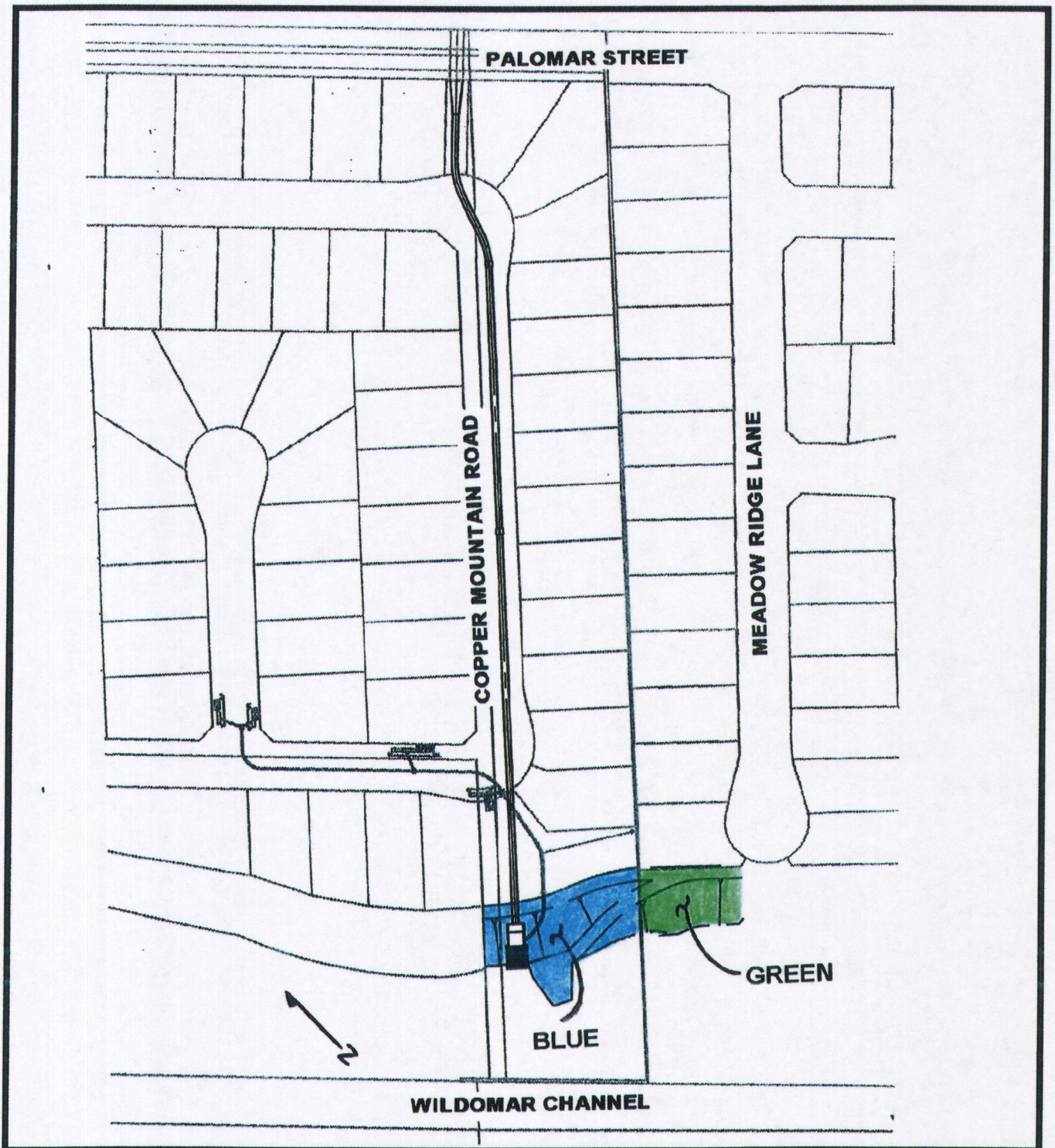
Murrieta Valley – Greyhawk Road Storm Drain Stage 2

TR 32078

Project No. 7-0-00232

Page 1 of 2

Exhibit B



COOPERATIVE AGREEMENT

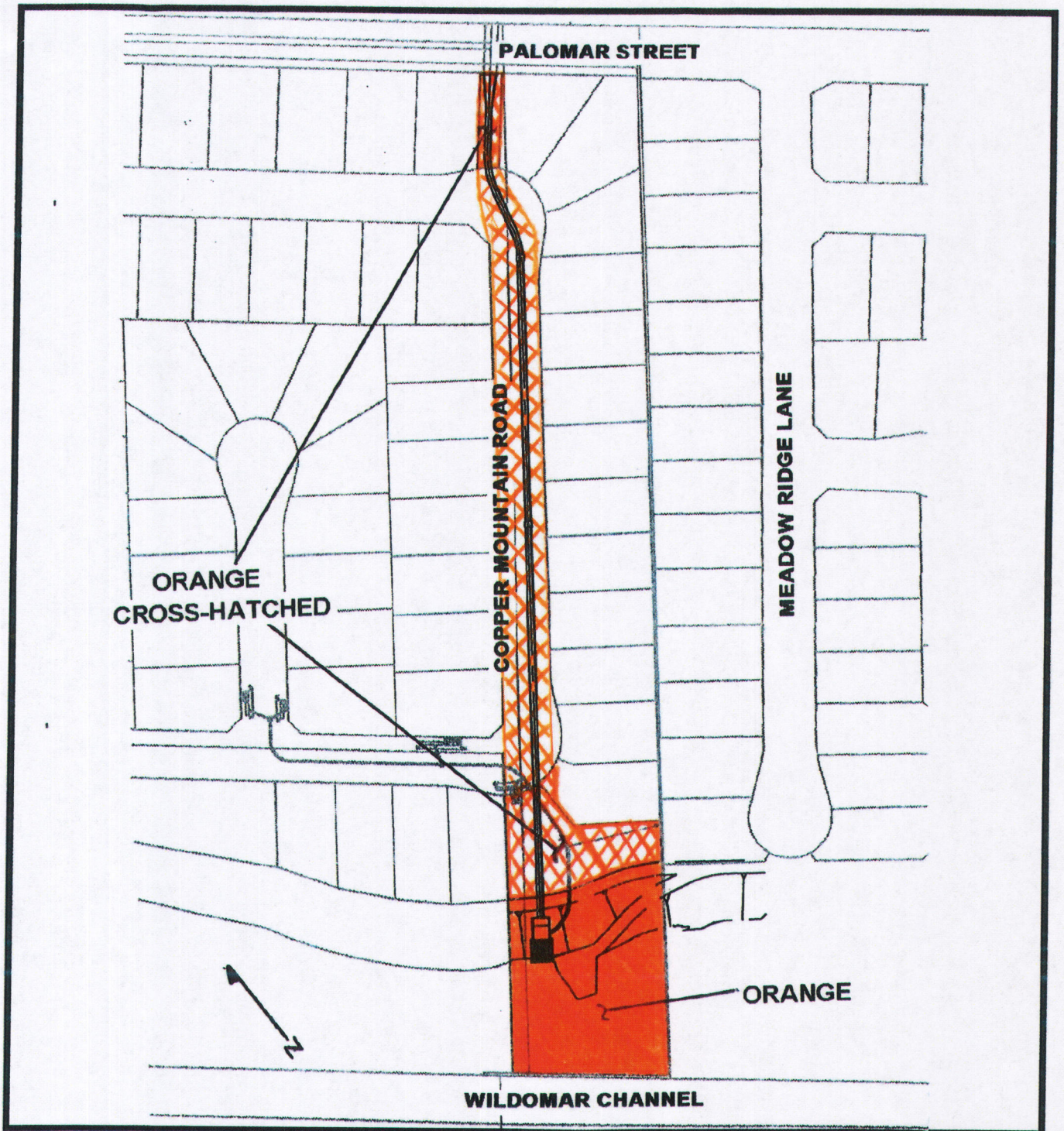
Murrieta Valley – Greyhawk Road Storm Drain Stage 2

TR 32078

Project No. 7-0-00232

Page 2 of 2

Exhibit C



COOPERATIVE AGREEMENT

Murrieta Valley – Greyhawk Road Storm Drain Stage 2

TR 32078

Project No. 7-0-00232

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