

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS DATE

Departmental Concurrence

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

320B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

August 23, 2016

SUBJECT: Approval of Cooperative Agreement for Perris Valley Master Drainage Plan – Line J, Perris Valley Master Drainage Plan – Lateral J-5 (Parcel Map No. 27544), Project No. 4-0-00505, District 5 [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the District, the City of Perris (City) and the Coudures Family Limited Partnership (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 Parcel Map No. 27544, are to be constructed by Developer and inspected, operated and maintained by the District and City.

Continued on Page 2.

LMD:mcv
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JASON E. UHLEY
 General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ 0	\$ 0	\$ 0	\$ 0	

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

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
 Nays: None
 Absent: None
 Date: August 23, 2016
 xc: Flood

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

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

Prev. Agn. Ref.: | **District:** 5th | **Agenda Number:**

11-9

**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 Perris Valley Master Drainage Plan – Line J, Perris Valley Master Drainage Plan – Lateral J-5 (Parcel Map No. 27544), Project No. 4-0-00505 District 5 [\$0]

DATE: August 23, 2016

PAGE: Page 2 of 2

BACKGROUND:

Summary (continued)

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

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

Impact on Residents and Businesses

The surrounding areas will benefit from the drainage provided by storm drain facilities that are to be operated and maintained by District and City.

SUPPLEMENTAL:

Additional Fiscal Information

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

ATTACHMENTS:

1. Vicinity Map
2. Cooperative Agreement

LMD:mcv:blm
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COOPERATIVE AGREEMENT

Perris Valley Master Drainage Plan - Line J,
Perris Valley Master Drainage Plan - Lateral J-5
Project No. 4-0-00505
Parcel Map No. 27544

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", the City of Perris, hereinafter called "CITY", and the COUDURES FAMILY LIMITED PARTNERSHIP a California limited partnership, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DEVELOPER is the owner of Parcel Map No. 27544, located in the city of Perris; and

B. The legal description of Parcel Map No. 27544 is provided on Exhibit "A" attached hereto and made a part hereof; and

C. Pursuant to a Right of Entry and Inspection Agreement executed by and between DISTRICT and DEVELOPER on June 10, 1994, DEVELOPER constructed or caused to be constructed the following:

1. A portion of underground reinforced concrete box system located within DEVELOPER-owned property, hereinafter known as "ONSITE STORM DRAIN"; and
2. A portion of underground reinforced concrete box system located outside DEVELOPER-owned property, hereinafter known as "OFFSITE STORM DRAIN".

Together, ONSITE STORM DRAIN and OFFSITE STORM DRAIN are called "PERRIS VALLEY MDP LINE J" as shown in approximate in red on Exhibit "B" attached hereto and made a part hereof.

1 D. Associated with the construction of PERRIS VALLEY MDP LINE J,
2 DEVELOPER constructed or caused to be constructed a segment of underground concrete pipe
3 hereinafter known as "LATERAL J-5" as shown in approximate in green on Exhibit "B"; and

4 E. Together, PERRIS VALLEY MDP LINE J and LATERAL J-5 are
5 hereinafter known as "DISTRICT DRAINAGE FACILITIES"; and

6 F. DISTRICT DRAINAGE FACILITIES have not been accepted by
7 DISTRICT for ownership, operation and maintenance; and

8 G. Associated with the construction of DISTRICT DRAINAGE
9 FACILITIES, DEVELOPER constructed or caused to be constructed certain underground storm
10 drain laterals, inlets, catch basins, and connector pipes located within CITY-held easements or
11 rights of way, hereinafter called "APPURTENANCES"; and

12 H. Together, DISTRICT DRAINAGE FACILITIES and
13 APPURTENANCES are hereinafter called "PROJECT"; and

14 I. Pursuant to a second Right of Entry and Inspection Agreement executed
15 by and between DISTRICT, CITY, DEVELOPER, and Wal-Mart Stores, Inc., a Delaware
16 corporation on April 13, 2015, DEVELOPER and CITY desire DISTRICT to accept ownership
17 and responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.
18 Therefore, DISTRICT must inspect the condition of DISTRICT DRAINAGE FACILITIES to
19 ensure that they are in an acceptable condition; and

20 J. DEVELOPER and DISTRICT desire CITY to accept ownership and
21 responsibility for the operation and maintenance of APPURTENANCES. Therefore, CITY must
22 inspect APPURTENANCES to ensure that they are in an acceptable condition; and

23 K. DISTRICT is willing to (i) inspect DISTRICT DRAINAGE FACILITIES;
24 and (ii) accept ownership and responsibility for the operation and maintenance of DISTRICT
25 DRAINAGE FACILITIES, provided DEVELOPER (a) complies with this Agreement; and (b)
26 obtains and conveys to DISTRICT the necessary rights of way for the inspection, operation and
27 maintenance of DISTRICT DRAINAGE FACILITIES as set forth herein; and
28

1 L. CITY is willing to (i) grant DISTRICT the right to inspect, operate and
2 maintain DISTRICT DRAINAGE FACILITIES within CITY rights of way; and (ii) accept
3 APPURTENANCES for ownership, operation and maintenance, provided PROJECT is
4 constructed in accordance with plans and specifications approved by DISTRICT and CITY.

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

6 SECTION I

7 DEVELOPER shall:

8 1. To the best of DEVELOPER'S knowledge, without due diligence or
9 inquiry, all necessary licenses, agreements, permits and rights of entry as may be needed for the
10 inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES have been
11 secured.

12 2. DEVELOPER shall, upon acceptance by CITY of all street rights of way
13 deemed necessary by DISTRICT and CITY for the operation and maintenance of DISTRICT
14 DRAINAGE FACILITIES and APPURTENANCES, but prior to DISTRICT acceptance of
15 DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance, convey, or
16 cause to be conveyed to DISTRICT the flood control easement(s), including ingress and egress,
17 for the rights of way deemed necessary by DISTRICT for the operation and maintenance of
18 DISTRICT DRAINAGE FACILITIES, in a form approved by DISTRICT, for the rights of way
19 as shown in concept in orange on Exhibit "C" attached hereto and made a part hereof.

20 3. Prior to the date of this Agreement, DISTRICT has obtained, reviewed
21 and approved a preliminary commitment for title insurance covering each easement parcel to be
22 conveyed to DISTRICT. DEVELOPER shall, at the time of recordation of the conveyance
23 document(s), as set forth in Section I.4., furnish DISTRICT with policies of title insurance, each
24 in the amount of not less than fifty percent (50%) of the estimated fee value, as determined by
25 DISTRICT, for each easement parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S
26 interest in said property subject to all matters of record.

27 4. It is mutually understood by the parties hereto that prior to DISTRICT
28 acceptance of ownership and responsibility for the operation and maintenance of DISTRICT

1 DRAINAGE FACILITIES, DISTRICT DRAINAGE FACILITIES shall be in a satisfactorily
2 maintained condition as solely determined by DISTRICT.

3 SECTION II

4 DISTRICT shall:

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

7 2. Inspect DISTRICT DRAINAGE FACILITIES.

8 3. Prior to DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES
9 for ownership, operation and maintenance, provide or cause the civil engineer of record or
10 construction civil engineer of record, duly registered in the State of California, to provide
11 DISTRICT with a redlined "record drawings" copy of PROJECT plans. After DISTRICT
12 approval of the redlined "record drawings", DISTRICT shall transfer the redlined changes onto
13 DISTRICT'S original mylars at DISTRICT'S office, after which the engineer shall review, stamp
14 and sign the original engineering plans "record drawings".

15 4. Accept ownership and sole responsibility for the operation and
16 maintenance of DISTRICT DRAINAGE FACILITIES upon (i) DISTRICT inspection of
17 DISTRICT DRAINAGE FACILITIES in accordance with Section I.1.; (ii) recordation of all
18 conveyance documents described in Section I.4.; (iii) CITY acceptance of all necessary street
19 rights of way as deemed necessary by DISTRICT and CITY for the operation and maintenance
20 of DISTRICT DRAINAGE FACILITIES and PROJECT; and (iv) DISTRICT'S sole
21 determination that DISTRICT DRAINAGE FACILITIES are in a satisfactory condition.

22 5. Provide CITY with a reproducible duplicate copy of "record drawings"
23 PROJECT plans upon DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES as being
24 complete.

25 SECTION III

26 CITY shall:

27 1. As requested by DISTRICT, accept any outstanding offers of dedication
28 necessary for the inspection, operation and maintenance of DISTRICT DRAINAGE

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

3 2. Grant DISTRICT, by execution of this Agreement, the right to inspect,
4 operate and maintain DISTRICT DRAINAGE FACILITIES within CITY rights of way.

5 3. Accept ownership and sole responsibility for the operation and
6 maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT DRAINAGE
7 FACILITIES for ownership and responsibility for operation and maintenance.

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

14 SECTION IV

15 It is further mutually agreed:

16 1. THIS SECTION LEFT INTENTIONALLY BLANK.

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

23 3. This Agreement is to be construed in accordance with the laws of the State
24 of California. If any provision in this Agreement is held by a court of competent jurisdiction to
25 be invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect
26 without being impaired or invalidated in any way.

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

1 RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
2 1995 Market Street
Riverside, CA 92501
3 Attn: Administrative Services Section

CITY OF PERRIS
101 N. "D" Street
Perris, CA 92570
Attn: City Engineer

4 COUDURES FAMILY LP
1688 N. Perris Boulevard, Suite F-4
5 Perris, CA 92571
Attn: Rose Thommen and Darrell Smith
6

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

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

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

19 8. Nothing contained in this Agreement shall prohibit DEVELOPER from
20 freely selling or conveying its fee interest in any portion of DEVELOPER'S property which is
21 subject to this Agreement.

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

27 10. This Agreement is intended by the parties hereto as a final expression of
28 their understanding with respect to the subject matter hereof and as a complete and exclusive

1 statement of the terms and conditions thereof and supersedes any and all prior and
2 contemporaneous agreements and understandings, oral or written, in connection therewith. This
3 Agreement may be changed or modified only upon the written consent of the parties hereto.

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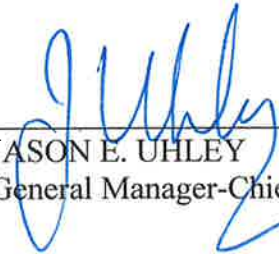
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

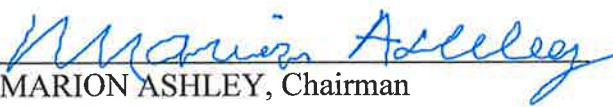
AUG 23 2016

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By 
JASON E. UHLEY
General Manager-Chief Engineer

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

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 
NEAL R. KIPNIS
Deputy County Counsel

By 
Deputy

(SEAL)

Cooperative Agreement:
Perris Valley Master Drainage Plan - Line J,
Perris Valley Master Drainage Plan - Lateral J-5
Project No. 4-0-00505
Parcel Map No. 27544
LMD:mcv
05/26/16

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RECOMMENDED FOR APPROVAL:


CITY OF PERRIS

By 
HABIB MOTLAGH
City Engineer

By 
DARYL R. BUSCH
Mayor

APPROVED AS TO FORM:

ATTEST:

By 
ERIC DUNN
City Attorney

By 
NANCY SALAZAR
City Clerk

(SEAL)

Cooperative Agreement:
Perris Valley Master Drainage Plan -- Line J,
Perris Valley Master Drainage Plan -- Lateral J-5
Project No. 4-0-00505
Parcel Map No. 27544
LMD/blm 5-26-16

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THE COUDURES FAMILY LIMITED PARTNERSHIP

a California limited partnership

By: Coudures Family Management Company
a California corporation
its General Partner

By 

DARRELL G. SMITH
Vice President

(ATTACH NOTARY WITH CAPACITY STATEMENT)

Cooperative Agreement:
Perris Valley Master Drainage Plan -- Line J,
Perris Valley Master Drainage Plan -- Lateral J-5
Project No. 4-0-00505
Parcel Map No. 27544
LMD:mev
05/26/16

ACKNOWLEDGMENT

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

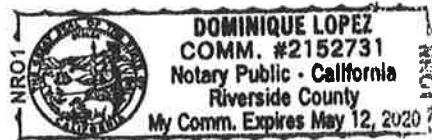
State of California
County of Riverside

On June 8, 2016 before me, Dominique Lopez, Notary Public,
(insert name and title of the officer)

personally appeared Darrell G. Smith
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 [Handwritten Signature]

(Seal)

Exhibit A

All that certain real property situated in the County of Riverside, State of California, described as follows:

PARCEL A:

Parcels 1 through 5 and 8 through 11, of Parcel Map 27544-2, in the City of Perris, County of Riverside, State of California, as shown by Map on file in Book 202, Pages 68 to 70 of Parcel Maps, in the Office of the County Recorder of said County.

Assessor's Parcel No's: 305-240-011 through 015 and 018 through 021

PARCEL B:

Lots B and C of Block 13, of Figadota Farms No. 8, in the City of Perris, County of Riverside, State of California, as shown by Map on file in Book 16, Pages 88 and 89 of Maps, in the Office of the County Recorder of said County.

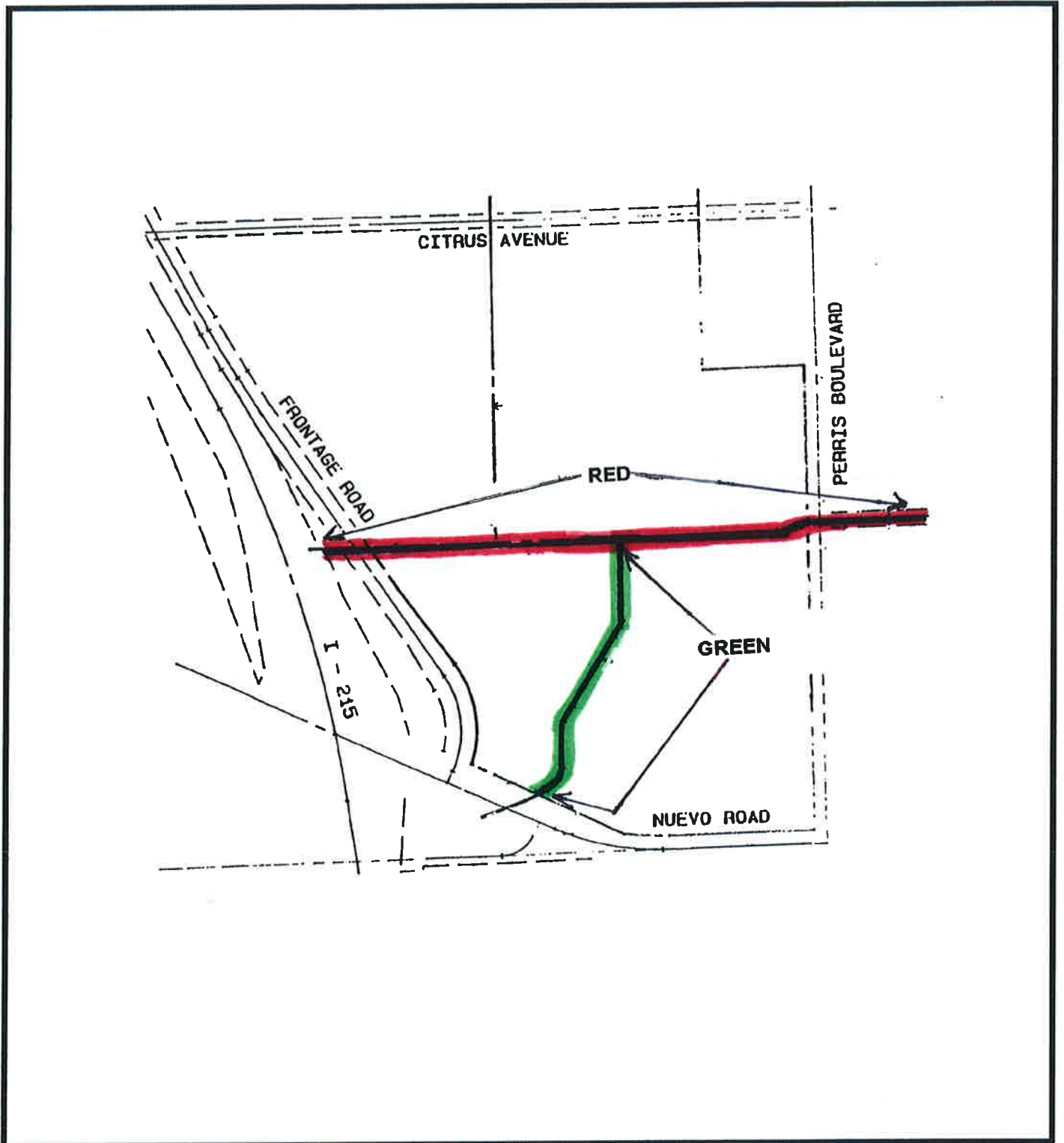
Excepting therefrom those portions conveyed to the State of California, by deed recorded March 22, 1991 as Instrument No. 94556, of Official Records.

Assessor's Parcel No's: 305-230-052 and 053

COOPERATIVE AGREEMENT

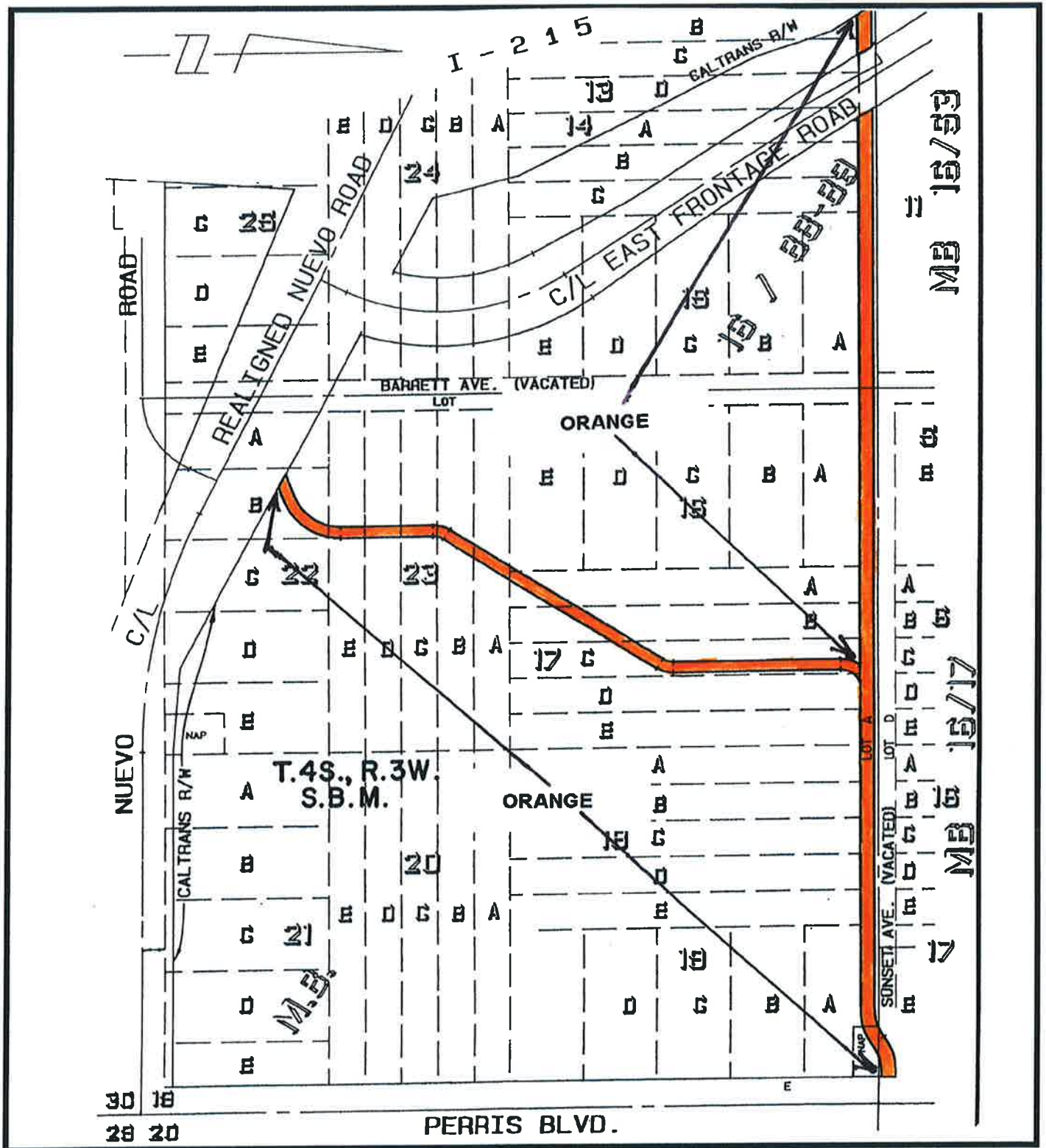
Perris Valley Master Drainage Plan -- Line J,
Perris Valley Master Drainage Plan -- Lateral J-5
Project No. 4-0-00505
Parcel Map No. 27544
Page 1 of 1

Exhibit B



COOPERATIVE AGREEMENT
Perris Valley Master Drainage Plan -- Line J,
Perris Valley Master Drainage Plan -- Lateral J-5
Project No. 4-0-00505
Parcel Map No. 27544
Page 1 of 1

Exhibit C



COOPERATIVE AGREEMENT
 Perris Valley Master Drainage Plan -- Line J,
 Perris Valley Master Drainage Plan -- Lateral J-5
 Project No. 4-0-00505
 Parcel Map No. 27544
 Page 1 of 1