

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



ITEM
3.20

MEETING DATE:

Tuesday, November 8, 2016

FROM : TLMA-TRANSPORTATION:

SUBJECT: TLMA-TRANSPORTATION: Approval of the Cooperative Agreement between the County of Riverside, Riverside County Flood Control and Water Conservation District, and Brookfield 30069, L.L.C., for the Warm Springs Valley – Maddalena Road Storm Drain, Stage 1 and the Warm Springs Valley – Alegre Vista Road Storm Drain, Stage 1 Project Nos. 7-0-00192 and 7-0-00193 Tract No. 30069-2. 3rd District; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement (Agreement) between the County of Riverside (County), Riverside County Flood Control and Water Conservation District (District), and Brookfield 30069, L.L.C. (Developer) for the Warm Springs Valley – Maddalena Road Storm Drain, Stage 1 and the Warm Springs Valley – Alegre Vista Road Storm Drain, Stage 1 Project; and
2. Authorize the Chairman of the Board to execute the Cooperative Agreement documents on behalf of the County of Riverside.

Policy


FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: 100% Developer Funded			Budget Adjustment:	No
			For Fiscal Year:	N/A

C.E.O. RECOMMENDATION: Approve

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Ashley 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: November 8, 2016
xc: Transp.

Kecia Harper-Ihem
Clerk of the Board
By: 
(Deputy)

3-20

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

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 Map 30069-2, are to be constructed by the Developer and inspected, operated and maintained by the County, District and the Developer. This Agreement is necessary to provide for the County and District construction inspection of the referenced drainage facilities. Upon completion of the facility's construction, the District will assume ownership, operation and maintenance of the mainline storm drain system, riprap outlet structure and a maintenance access road. The County will assume ownership and responsibility for operation and maintenance of the project's associated appurtenances, such as catch basins, inlets and connector pipes and laterals that are 36 inches or less in diameter located within County right of way boundaries.

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

Impact on Residents and Businesses

The construction of these drainage improvements is a requirement of the development of Tract 30069-2. The principal beneficiaries are the future residents of the tract as well as the surrounding properties. Ancillary benefits will accrue to citizens who will utilize the tract and local roadways.

SUPPLEMENTAL:

Additional Fiscal Information

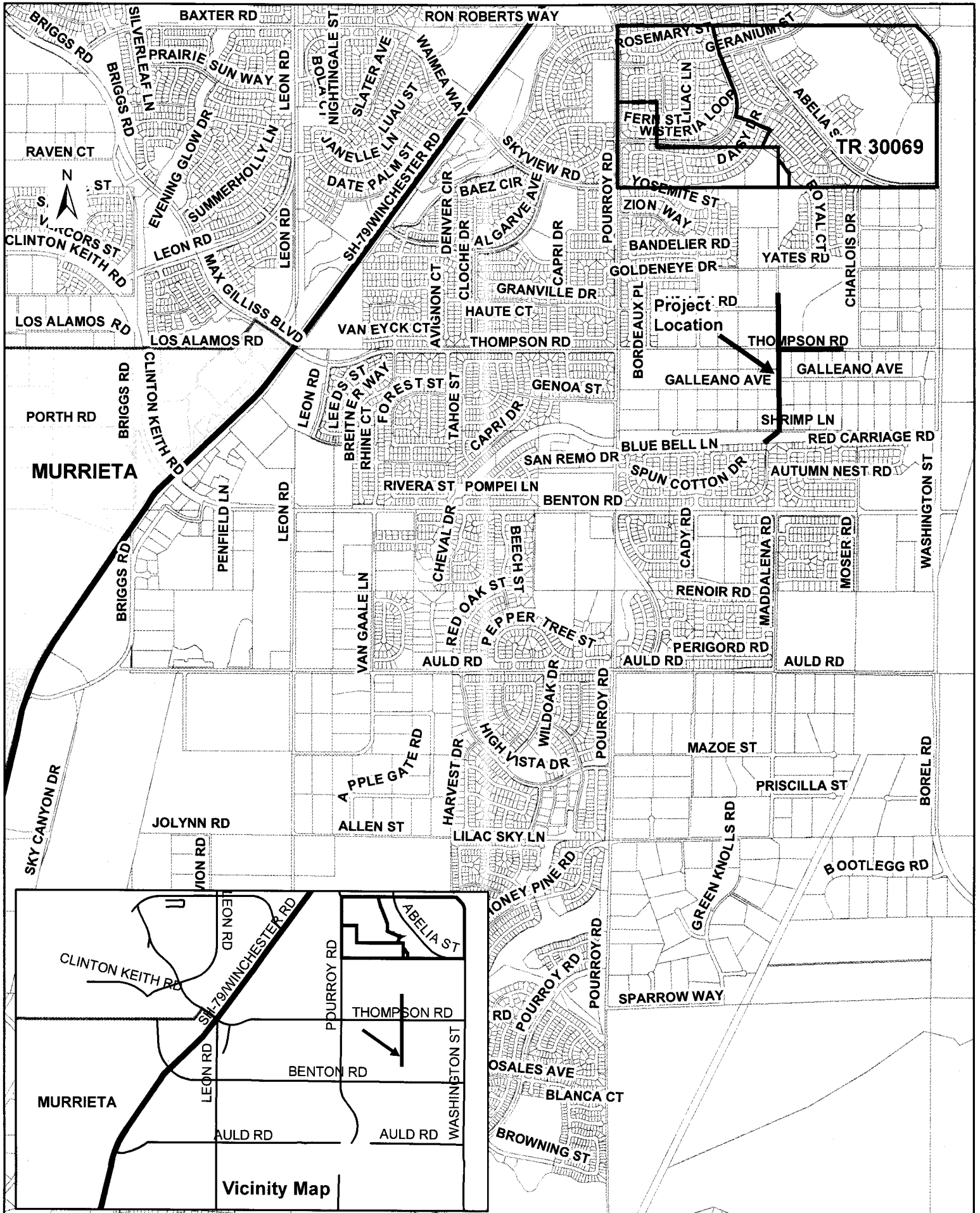
The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs of the catch basins and pipes less than 36 inches within County rights-of-way will accrue to the County of Riverside Transportation Department. The County currently maintains approximately 7,800 catch basins and culverts. These appurtenances are inspected annually as required by the State Water Quality Control Board and cleaned as needed, at an annual cost of approximately \$330,000. The addition of these catch basins and culverts will be added to the inventory and is expected to be able to be absorbed into the budget for maintenance based on total road mileage reported to the State. All costs will be reflected in departmental budget as necessary as a part of routine maintenance activities on county maintained roads. As the department increases road mileage, additional funds may be allocated from the state.

ATTACHMENTS:

Vicinity Map

Cooperative Agreement

Vicinity Map
TR30069-2
Project Nos. 7-0-00192 & 7-0-00193



COOPERATIVE AGREEMENT
Warm Springs Valley – Maddalena Road Storm Drain, Stage 1
Warm Springs Valley – Alegre Vista Road Storm Drain, Stage 1
Project Nos. 7-0-00192 and 7-0-00193
Tract No. 30069-2

The Riverside County Flood Control and Water Conservation District, a body politic, hereinafter called "DISTRICT", the County of Riverside, a political subdivision of the State of California, hereinafter called "COUNTY", and Brookfield 30069 LLC, a Delaware limited liability company, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DEVELOPER has submitted for approval Tract No. 30069-2 located in an unincorporated area of western Riverside County. As a condition of approval for Tract No. 30069-2, 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 and drainage improvements, all as shown on District Drawing No. 7-0538, include construction of (i) approximately 2,216 lineal feet of underground storm drain system, riprap outlet structure and maintenance access road, hereinafter called "LINE A", and (ii) approximately 645 lineal feet of underground storm drain system, hereinafter called "LINE B". Together LINE A and LINE B are hereinafter called "DISTRICT FACILITIES", as shown in concept on Exhibit "A", attached hereto and made a part hereof. At its upstream terminus, LINE A will connect to the proposed 24-inch storm drain system for Tract No. 36437. At its downstream terminus, LINE A will drain into DISTRICT'S Warm Springs Valley – Benton Creek Channel; and

C. Associated with the construction of DISTRICT FACILITIES is the construction of certain catch basins, inlets, connector pipes, concrete swale and various lateral

1 storm drains that are thirty-six inches (36") or less in diameter that are located within COUNTY
2 held easements or rights of way, hereinafter called "APPURTENANCES"; and

3 D. Together, DISTRICT FACILITIES and APPURTENANCES are hereinafter
4 called "PROJECT"; and

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

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

13 G. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and
14 specifications for PROJECT, (ii) inspect the construction of DISTRICT FACILITIES, and (iii)
15 accept ownership and responsibility for the operation and maintenance of DISTRICT
16 FACILITIES, provided DEVELOPER (a) complies with this Agreement, (b) constructs
17 PROJECT in accordance with DISTRICT and COUNTY approved plans and specifications, and
18 (c) accepts ownership and responsibility for the operation and maintenance of PROJECT
19 following completion of PROJECT construction until such time as DISTRICT accepts ownership
20 and responsibility for the operation and maintenance of DISTRICT FACILITIES; and

21 H. COUNTY is willing to (i) review and approve DEVELOPER'S plans and
22 specifications for PROJECT, (ii) inspect the construction of PROJECT, (iii) accept and hold
23 faithful performance and payment bonds submitted by DEVELOPER for DISTRICT
24 FACILITIES, (iv) grant DISTRICT the right to inspect, operate and maintain DISTRICT

1 FACILITIES within COUNTY rights of way, and (v) accept ownership and responsibility for the
2 operation and maintenance of APPURTENANCES, provided PROJECT is constructed in
3 accordance with plans and specifications approved by DISTRICT and COUNTY.

4
5 NOW, THEREFORE, the parties hereto mutually agree as follows:

6 SECTION I

7 DEVELOPER shall:

8 1. Prepare PROJECT plans and specifications, hereinafter called
9 "IMPROVEMENT PLANS", in accordance with applicable DISTRICT and COUNTY standards,
10 and submit to DISTRICT and COUNTY for their respective review and approval.

11 2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic
12 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by
13 DISTRICT to cover DISTRICT'S costs associated with the review of IMPROVEMENT PLANS,
14 and with the processing and administration of this Cooperative Agreement.

15 3. Deposit with DISTRICT (Attention: Business Office - Accounts
16 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT
17 construction as set forth in Section I.8. herein, the estimated cost of providing construction
18 inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT
19 in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any
20 amendments thereto, based upon the bonded value of DISTRICT FACILITIES. If at any time the
21 costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit with DISTRICT,
22 DEVELOPER shall pay such additional amount(s), as deemed reasonably necessary by
23 DISTRICT to complete inspection of DISTRICT FACILITIES, within thirty (30) days after
24 receipt of billing from DISTRICT.
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1 4. Pay DISTRICT, upon execution of this Cooperative Agreement, the one-
2 time cash sum of thirteen thousand two hundred dollars (\$13,200), the amount agreed upon to
3 cover DISTRICT'S estimated cost to operate and maintain DISTRICT FACILITIES for a period
4 of ten (10) years (Zone 7 - Maintenance Trust Fund) commencing upon DISTRICT'S acceptance
5 of DISTRICT FACILITIES as complete for ownership, operation and maintenance.
6

7 5. Secure, at its sole cost and expense, all necessary licenses, agreements,
8 permits and rights of entry as may be needed for the construction, inspection, operation and
9 maintenance of DISTRICT FACILITIES. DEVELOPER shall furnish DISTRICT, at the time of
10 providing written notice to DISTRICT of the start of construction as set forth in Section I.8., with
11 sufficient evidence of DEVELOPER having secured such necessary licenses, agreements, permits
12 and rights of entry, as determined and approved by DISTRICT.
13

14 6. Prior to commencing construction, furnish DISTRICT with copies of all
15 permits, approvals or agreements required by any federal, state or local resource and/or regulatory
16 agency for the construction, operation and maintenance of DISTRICT FACILITIES. Such
17 documents include but are not limited to those issued by the U.S. Army Corps of Engineers,
18 California Regional Water Quality Control Board, California State Department of Fish and
19 Wildlife, State Water Resources Control Board, and Western Riverside County Regional
20 Conservation Authority.
21

22 7. Provide COUNTY, at the time of providing written notice to DISTRICT of
23 the start of construction as set forth in Section I.8., with faithful performance and payment bonds
24 covering all improvements as conditioned, each in the amount of one hundred percent (100%) of
25 the estimated cost for construction of DISTRICT FACILITIES as determined by DISTRICT. The
26 surety, amount and form of the bonds, shall be subject to approval of DISTRICT and COUNTY.
27
28 The bonds shall remain in full force and effect until DISTRICT FACILITIES are accepted by

1 DISTRICT as complete; at which time the bond amount may be reduced to five percent (5%) for
2 a period of one (1) year to guarantee against any defective work, labor or materials.

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

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

14 10. [INTENTIONALLY DELETED]

15 11. [INTENTIONALLY DELETED]

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

21
22 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
23 the start of construction as set forth in Section I.8., a construction schedule which shall show the
24 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out the
25 various parts of work, including estimated start and completion dates. As construction of
26 DISTRICT FACILITIES progresses, DEVELOPER shall update said construction schedule as
27 requested by DISTRICT.
28

1 14. Furnish DISTRICT with final mylar PROJECT plans and assign their
2 ownership to DISTRICT prior to the start on any portion of PROJECT construction.

3 15. Not permit any change to or modification of DISTRICT and COUNTY
4 approved IMPROVEMENT PLANS without the prior written permission and consent of
5 DISTRICT and COUNTY.
6

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

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

17 18. DEVELOPER shall not commence operations until DISTRICT has been
18 furnished with original certificate(s) of insurance and original certified copies of endorsements
19 and if requested, certified original policies of insurance including all endorsements and any and
20 all other attachments as required in this Section.
21

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

25 A. Workers' Compensation:
26

27 If DEVELOPER has employees as defined by the State of California,

28 DEVELOPER shall maintain statutory Workers' Compensation Insurance

1 (Coverage A) as prescribed by the laws of the State of California. Policy
2 shall include Employers' Liability (Coverage B) including Occupational
3 Disease with limits not less than \$1,000,000 per person per accident. Policy
4 shall be endorsed to waive subrogation in favor of DISTRICT and
5 COUNTY.
6

7 B. Commercial General Liability:

8 Commercial General Liability insurance coverage, including but not limited
9 to, premises liability, unmodified contractual liability, products and
10 completed operations liability, personal and advertising injury, and cross
11 liability coverage, covering claims which may arise from or out of
12 DEVELOPER'S performance of its obligations hereunder. Policy shall name
13 the Riverside County Flood Control and Water Conservation District and
14 COUNTY, its agencies, districts, special districts, and departments, their
15 respective directors, officers, Board of Supervisors, employees, elected or
16 appointed officials, agents or representatives as additional insureds. Policy's
17 limit of liability shall not be less than \$2,000,000 per occurrence combined
18 single limit. If such insurance contains a general aggregate limit, it shall
19 apply separately to this Agreement or be no less than two (2) times the
20 occurrence limit.
21

22 C. Vehicle Liability:

23 If DEVELOPER'S vehicles or mobile equipment are used in the performance
24 of the obligations under this Agreement, then DEVELOPER shall maintain
25 liability insurance for all owned, non-owned or hired vehicles so used in an
26 amount not less than \$1,000,000 per occurrence combined single limit. If
27
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1 such insurance contains a general aggregate limit, it shall apply separately to
2 this Agreement or be no less than two (2) times the occurrence limit. Policy
3 shall name the Riverside County Flood Control and Water Conservation
4 District and COUNTY, its agencies, districts, special districts, and
5 departments, their respective directors, officers, Board of Supervisors,
6 employees, elected or appointed officials, agents or representatives as
7 additional insureds.
8

9 D. Professional Liability:

10 DEVELOPER shall maintain Professional Liability Insurance providing
11 coverage for DEVELOPER'S performance of work included within this
12 Agreement, with a limit of liability of not less than \$2,000,000 per
13 occurrence and \$4,000,000 annual aggregate. If DEVELOPER'S
14 Professional Liability Insurance is written on a claims made basis rather than
15 an occurrence basis, such insurance shall continue through the term of this
16 Agreement and DEVELOPER shall purchase at his sole expense either 1) an
17 Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior
18 Dates Coverage from a new insurer with a retroactive date back to the date
19 of, or prior to, the inception of this Agreement; or 3) demonstrate through
20 Certificates of Insurance that DEVELOPER has maintained continuous
21 coverage with the same or original insurer. Coverage provided under items:
22 1), 2) or 3) will continue as long as the law allows.
23

24 E. General Insurance Provisions – All Lines:

- 25
26 i. Any insurance carrier providing insurance coverage hereunder shall be
27 admitted to the State of California and have an A.M. BEST rating of not
28

1 less than an A: VIII (A: 8) unless such requirements are waived, in
2 writing, by the County Risk Manager. If the County Risk Manager
3 waives a requirement for a particular insurer such waiver is only valid
4 for that specific insurer and only for one policy term.
5

6 ii. The DEVELOPER must declare its insurance self-insured retention for
7 each coverage required herein. If any such self-insured retention
8 exceeds \$500,000 per occurrence each such retention shall have the
9 prior written consent of the County Risk Manager before the
10 commencement of operations under this Agreement. Upon notification
11 of self-insured retention deemed unacceptable to the DISTRICT, and at
12 the election of the County Risk Manager, DEVELOPER'S carriers shall
13 either: 1) reduce or eliminate such self-insured retention with respect to
14 this Agreement with DISTRICT, or 2) procure a bond which guarantees
15 payment of losses and related investigations, claims administration, and
16 defense costs and expenses.
17

18 iii. DEVELOPER shall cause their insurance carrier(s) to furnish
19 DISTRICT with 1) a properly executed original certificate(s) of
20 insurance and certified original copies of endorsements effecting
21 coverage as required herein; and 2) if requested to do so orally or in
22 writing by the County Risk Manager, provide original certified copies
23 of policies including all endorsements and all attachments thereto,
24 showing such insurance is in full force and effect. Further, said
25 certificate(s) and policies of insurance shall contain the covenant of the
26 insurance carrier(s) that a minimum of sixty (60) days written notice
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1 shall be given to the DISTRICT prior to any material modification,
2 cancellation, expiration or reduction in coverage of such insurance. If
3 DEVELOPER insurance carrier(s) policies does not meet the minimum
4 notice requirement found herein, DEVELOPER shall cause
5 DEVELOPER'S insurance carrier(s) to furnish a 60 day Notice of
6 Cancellation Endorsement. In the event of a material modification,
7 cancellation, expiration or reduction in coverage, this Agreement shall
8 terminate forthwith, unless DISTRICT receives, prior to such effective
9 date, another properly executed original certificate of insurance and
10 original copies of endorsements or certified original policies, including
11 all endorsements and attachments thereto, evidencing coverages set
12 forth herein and the insurance required herein is in full force and effect.
13 An individual authorized by the insurance carrier to do so on its behalf
14 shall sign the original endorsements for each policy and the certificate
15 of insurance.

- 16
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19 iv. It is understood and agreed by the parties hereto that DEVELOPER'S
20 insurance shall be construed as primary insurance, and DISTRICT'S
21 insurance and/or deductibles and/or self-insured retentions or self-
22 insured programs shall not be construed as contributory.
- 23 v. If, during the term of this Agreement or any extension thereof, there is
24 a material change in the scope of services or there is a material change
25 in the equipment to be used in the performance of the scope of work
26 which will add additional exposures (such as the use of aircraft,
27 watercraft, cranes, etc.); or the term of this Agreement, including any
28

1 extensions thereof, exceeds five (5) years, DISTRICT reserves the right
2 to adjust the types of insurance required under this Agreement and the
3 monetary limits of liability for the insurance coverages currently
4 required herein, if, in the County Risk Manager's reasonable judgment,
5 the amount or type of insurance carried by DEVELOPER has become
6 inadequate.
7

- 8 vi. DEVELOPER shall pass down the insurance obligations contained
9 herein to all tiers of subcontractors working under this Agreement.
10
11 vii. The insurance requirements contained in this Agreement may be met
12 with a program(s) of self-insurance acceptable to DISTRICT.
13
14 viii. DEVELOPER agrees to notify DISTRICT of any claim by a third party
15 or any incident or event that may give rise to a claim arising from the
16 performance of this Agreement.

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

23 19. Construct or cause to be constructed, PROJECT at DEVELOPER'S sole cost
24 and expense, in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.

25 20. Within two (2) weeks of completing PROJECT construction, provide
26 DISTRICT (Attention: Development Review Section) and COUNTY with written notice that
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1 PROJECT construction is substantially complete and requesting that DISTRICT conduct a final
2 inspection of DISTRICT FACILITIES and COUNTY conduct a final inspection of PROJECT.

3
4 21. Accept ownership and sole responsibility for the operation and maintenance
5 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
6 and maintenance of DISTRICT FACILITIES and COUNTY accepts ownership and responsibility
7 for operation and maintenance of APPURTENANCES.

8
9 22. Accept all liability whatsoever associated with the ownership, operation and
10 maintenance of DISTRICT FACILITIES until such time as DISTRICT FACILITIES are formally
11 accepted by DISTRICT for ownership, operation and maintenance.

12
13 23. Pay, if suit is brought upon this Cooperative Agreement or any bond
14 guaranteeing the completion of PROJECT, all costs and reasonable expenses and fees, including
15 reasonable attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses
16 and fees shall be computed as costs and included in any judgment rendered.

17
18 24. Upon completion of PROJECT construction, but prior to DISTRICT
19 acceptance of DISTRICT FACILITIES for ownership, operation and maintenance, provide or
20 cause its civil engineer of record or construction civil engineer of record, duly registered in the
21 State of California, to provide DISTRICT with a redlined "record drawings" copy of PROJECT
22 plans. After DISTRICT approval of the redlined "record drawings", DEVELOPER'S engineer
23 shall schedule with DISTRICT a time to transfer the redlined changes onto DISTRICT'S original
24 mylars at DISTRICT'S office, after which the engineer shall review, stamp and sign the original
25 PROJECT engineering plans "record drawings".

26
27 25. Ensure that all work performed pursuant to this Cooperative Agreement by
28 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
regulations, including but not limited to all applicable provisions of the Labor Code, Business and

1 Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs
2 associated with compliance with applicable laws and regulations.

3
4 SECTION II

5 DISTRICT shall:

6 1. Review IMPROVEMENT PLANS and approve when DISTRICT has
7 determined that such plans meet DISTRICT standards and are found acceptable to DISTRICT
8 prior to the start of PROJECT construction.

9 2. Provide COUNTY an opportunity to review and approve IMPROVEMENT
10 PLANS prior to DISTRICT'S final approval.

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

14
15 4. [INTENTIONALLY DELETED]

16 5. Inspect DISTRICT FACILITIES construction.

17 6. Keep an accurate accounting of all DISTRICT costs associated with the
18 review and approval of IMPROVEMENT PLANS, and the processing and administration of this
19 Cooperative Agreement.

20
21 7. Keep an accurate accounting of all DISTRICT construction inspection costs,
22 and within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITIES as being
23 complete, submit a final cost statement to DEVELOPER. If the deposit, as set forth in Section
24 I.3., exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty
25 (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete.

26
27 8. Accept ownership and sole responsibility for the operation and maintenance
28 of DISTRICT FACILITIES upon (i) DISTRICT inspection of DISTRICT FACILITIES in

1 accordance with Section I.20., (ii) DISTRICT acceptance of PROJECT construction as being
2 complete, (iii) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans,
3 as set forth in Section I.24., (iv) COUNTY acceptance of APPURTENANCES for ownership,
4 operation, and maintenance, and (v) DISTRICT'S sole determination that DISTRICT
5 FACILITIES are in a satisfactorily maintained condition.
6

7 9. Provide COUNTY with a reproducible duplicate copy of "record drawings"
8 PROJECT plans upon DISTRICT acceptance of DISTRICT FACILITIES as being complete.

9 SECTION III

10 COUNTY shall:

11 1. Review IMPROVEMENT PLANS and approve when COUNTY has
12 determined that such plans meet County standards and are found acceptable to COUNTY prior to
13 the start of PROJECT construction.
14

15 2. Accept COUNTY and DISTRICT approved faithful performance and
16 payment bonds submitted by DEVELOPER as set forth in Section I.7., and hold said bonds as
17 provided herein.
18

19 3. Inspect PROJECT construction.

20 4. [INTENTIONALLY DELETED]

21 5. [INTENTIONALLY DELETED]

22 6. Grant DISTRICT, by execution of this Agreement, the right to construct,
23 inspect, operate and maintain DISTRICT FACILITIES within COUNTY rights of way.

24 7. Accept ownership and sole responsibility for the operation and maintenance
25 of APPURTENANCES upon DISTRICT acceptance of DISTRICT FACILITIES for ownership,
26 operation and maintenance.
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8. Not grant any occupancy permits for any units within any portion of Tract No. 30069-2, or any phase thereof, until the PROJECT is deemed substantially complete.

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

SECTION IV

It is further mutually agreed:

1. All work involved with PROJECT shall be inspected by DISTRICT and COUNTY but shall not be deemed complete until DISTRICT and COUNTY mutually agree in writing that construction is completed in accordance with DISTRICT and COUNTY approved IMPROVEMENT PLANS.

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

3. DISTRICT acceptance of ownership and responsibility for the operation and maintenance of DISTRICT FACILITIES shall be in a satisfactorily maintained condition as solely determined by DISTRICT. If, subsequent to the inspection and, in the sole discretion of DISTRICT, DISTRICT FACILITIES are not in an acceptable condition, corrections shall be made at sole expense of DEVELOPER.

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

10 5. If DEVELOPER fails to commence construction of PROJECT within nine
11 (9) months after execution of this Cooperative Agreement, then DISTRICT reserves the right to
12 withhold issuance of the Notice to Proceed pending a review of the existing site conditions as they
13 exist at the time DEVELOPER provides written notification to DISTRICT of the start of
14 construction as set forth in Section I.8. In the event of a change in the existing site conditions that
15 materially affects PROJECT function or DISTRICT'S ability to operate and maintain DISTRICT
16 FACILITIES, DISTRICT may require DEVELOPER to modify IMPROVEMENT PLANS as
17 deemed necessary by DISTRICT.
18

19 6. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed within
20 twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in Section I.8.;
21 however, DISTRICT'S construction inspection staff is limited and, therefore, the issuance of a
22 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,
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1 approval. DISTRICT shall review the individual's qualifications and experience, upon approval
2 thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized to act
3 on DISTRICT'S behalf on all DISTRICT FACILITIES construction and quality control matters.
4 If DEVELOPER'S initial construction inspection deposit furnished pursuant to Section I.3.
5 exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to eighty
6 percent (80%) of DEVELOPER'S initial inspection deposit within forty-five (45) days of
7 DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand
8 dollars (\$10,000) shall be retained on account.
9

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

23 8. DEVELOPER shall indemnify and hold harmless DISTRICT and COUNTY
24 (including their agencies, districts, special districts and departments, their respective directors,
25 officers, Board of Supervisors, elected and appointed officials, employees, agents and
26 representatives) from any liability, claim, damage, proceeding or action, present or future, based
27
28

1 upon, arising out of or in any way relating to DEVELOPER'S (including its officers, employees,
2 subcontractors and agents) actual or alleged acts or omissions related to this Agreement,
3 performance under this Agreement, or failure to comply with the requirements of this Agreement,
4 including but not limited to: (a) property damage; (b) bodily injury or death; (c) liability or damage
5 pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United
6 States Constitution or any other law, ordinance or regulation caused by the diversion of waters
7 from the natural drainage patterns or the discharge of drainage within or from PROJECT; or (d)
8 any other element of any kind or nature whatsoever.
9

10 DEVELOPER shall defend, at its sole expense, including all costs and fees
11 (including but not limited to attorney fees, cost of investigation, defense and settlements or
12 awards), DISTRICT and COUNTY (including their agencies, districts, special districts and
13 departments, their respective directors, officers, Board of Supervisors, elected and appointed
14 officials, employees, agents and representatives) in any claim, proceeding or action for which
15 indemnification is required.
16

17 With respect to any of DEVELOPER'S indemnification requirements,
18 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall
19 have the right to adjust, settle, compromise any such claim, proceeding or action without the prior
20 consent of DISTRICT and COUNTY; provided, however, that any such adjustment, settlement
21 or compromise in no manner whatsoever limits or circumscribes DEVELOPER'S indemnification
22 obligations to DISTRICT or COUNTY.
23

24 DEVELOPER'S indemnification obligations shall be satisfied when
25 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal (or
26 similar document) relieving DISTRICT or COUNTY from any liability for the claim, proceeding
27 or action involved.
28

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

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

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

21
22 10. Any waiver by DISTRICT or by COUNTY of any breach of any one or more
23 of the terms of this Cooperative Agreement shall not be construed to be a waiver of any subsequent
24 or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or
25 COUNTY to require exact, full and complete compliance with any terms of this Cooperative
26
27
28

1 Agreement shall not be construed as in any manner changing the terms hereof, or estopping
2 DISTRICT or COUNTY from enforcement hereof.

3 11. Any and all notices sent or required to be sent to the parties of this
4 Cooperative Agreement will be mailed by first class mail, postage prepaid, to the following
5 addresses:
6

7 RIVERSIDE COUNTY FLOOD CONTROL
8 AND WATER CONSERVATION DISTRICT
9 1995 Market Street
Riverside, CA 92501
Attn: Administrative Services Section

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

10 BROOKFIELD 30069 LLC
11 3200 Park Center Drive, Suite 1000
12 Costa Mesa, CA 92626
Attn: Adrian Peters

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

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

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

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

3 16. 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 17. 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 18. 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 and
18 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 parties
21 hereto.
22

23 //

24 //

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

2 _____
3 (to be filled in by Clerk of the Board)

4
5 RECOMMENDED FOR APPROVAL:

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

6
7 By _____
8 JASON E. UHLEY
General Manager-Chief Engineer

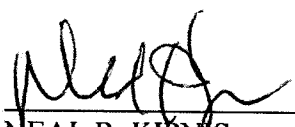
By _____
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

9
10 APPROVED AS TO FORM:

ATTEST:

11 GREGORY P. PRIAMOS
12 County Counsel

KECIA HARPER-IHEM
Clerk of the Board

13 By 
14 NEAL R. KIPNIS
15 Deputy County Counsel

By _____
Deputy


(SEAL)

16
17
18
19
20
21
22
23 Cooperative Agreement:

24 Warm Springs Valley – Maddalena Road Storm Drain, Stage 1
25 Warm Springs Valley – Alegre Vista Road Storm Drain, Stage 1
(Tract No. 30069-2)
26 Project Nos. 7-0-00192 and 7-0-00193
27 AMR:blm
08/23/16
28

1 RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

2
3 By 
4 PATRICIA ROMO
Director of Transportation


By _____
JOHN J. BENOIT, Chairman
Board of Supervisors

7 APPROVED AS TO FORM:

ATTEST:

8 GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

10 By 
11 SYNTHIA M. GUNZEL
12 Supervising Deputy County Counsel

By _____
Deputy

(SEAL)

22 Cooperative Agreement:

23 Warm Springs Valley – Maddalena Road Storm Drain, Stage 1
24 Warm Springs Valley – Alegre Vista Road Storm Drain, Stage 1
(Tract No. 30069-2)
25 Project Nos. 7-0-00192 and 7-0-00193
AMR:blm
26 08/23/16

BROOKFIELD 30069 LLC
a Delaware limited liability company

By: Brookfield Homes Southern California LLC
a Delaware limited liability company
Its Sole Member

By 

Dave Bartlett, Vice President
Authorized Signatory

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Cooperative Agreement:

Warm Springs Valley – Maddalena Road Storm Drain, Stage 1

Warm Springs Valley – Alegre Vista Road Storm Drain, Stage 1
(Tract No. 30069-2)

Project Nos. 7-0-00192 and 7-0-00193

AMR:blm

08/23/16

CALIFORNIA ALL- PURPOSE CERTIFICATE OF 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 Orange }

On September 12, 2016 before me, Anne Marie Aschieris, ^{Notary Public}
(Here insert name and title of the officer)

personally appeared Dave Bartlett
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.

Anne Marie Aschieris
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.