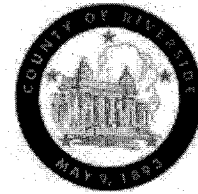


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
3.31
(ID # 3856)

MEETING DATE:
Tuesday, May 2, 2017

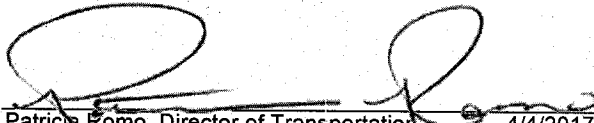
FROM : TLMA-TRANSPORTATION:

SUBJECT: TLMA-TRANSPORTATION DEPARTMENT: Approval of the Cooperative Agreement between the County of Riverside, Flood Control and Water Conservation District, and Knox Logistics V, LLC, for the Perris Valley Master Drainage Plan Lateral B-8, Stage 2 in Harley Knox Boulevard; 1st District [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the County of Riverside (County), Flood Control and Water Conservation District (District), and Knox Logistics V, LLC (Developer); and
2. Authorize the Chairman of the Board to execute the same.


ACTION: Policy


Patricia Romo, Director of Transportation 4/4/2017

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Washington and Ashley
Nays: None
Absent: None
Date: May 2, 2017
xc: Transp.

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

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

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: Developer is funding all construction and construction inspection costs. There are no General Funds being used for this project.			Budget Adjustment : No	
			For Fiscal Year: 2016/17	

C.E.O. RECOMMENDATION: [CEO use]

BACKGROUND:

SUMMARY:

The Cooperative Agreement sets forth the terms and conditions by which certain flood control facilities, required as a condition of approval for Plot Plan No. 25954, are to be constructed in Harley Knox Boulevard by the Developer and inspected, operated and maintained by the Riverside County Flood Control and Water Conservation District and the County Transportation Department.

The Agreement is necessary for the County Transportation Department to provide construction inspection, and subsequent operation and maintenance of the referenced storm drain appurtenances.

Upon completion of construction, the Riverside County Flood Control and Water Conservation District will assume ownership and responsibility for the operation and maintenance of the mainline storm drain system. The County Transportation Department will assume ownership and responsibility for the operation and maintenance of the storm drain appurtenances located within the County right of way, including associated catch basins and lateral pipes that are 36 inches or less in diameter.

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

Impact on Residents and Businesses:

As noted above, construction of these drainage improvements is a requirement for the development of Plot Plan No. 25954. The principal beneficiaries are the business owners, employees and transportation contractors that will utilize this road. Ancillary benefits will accrue to citizens who will utilize the improved roadways.

Additional Fiscal Information:

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs of the mainline storm drain system will accrue to the District. Future operation and maintenance costs of the storm drain appurtenances located within the County right of way will accrue to County of Riverside Transportation Department and absorbed into routine maintenance activities.

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

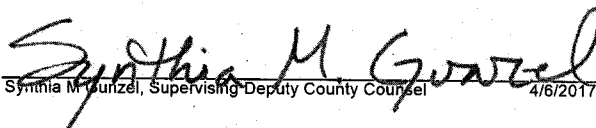
Contract History and Price Reasonableness:

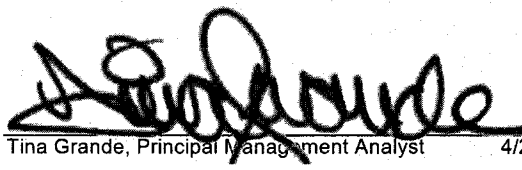
N/A

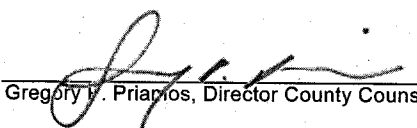
ATTACHMENTS:

Vicinity Map

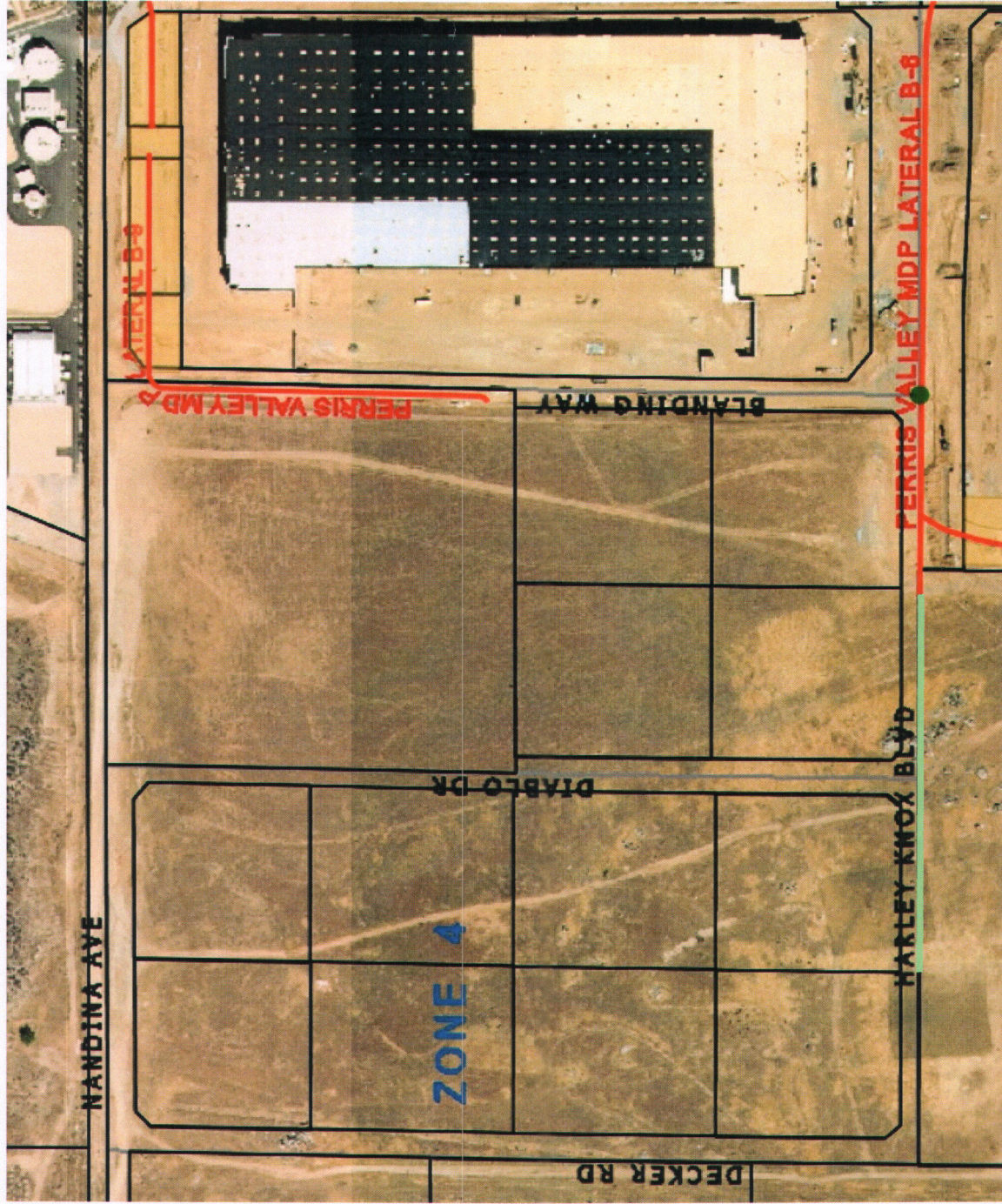
Cooperative Agreement


Cynthia M. Gornel, Supervising Deputy County Counsel 4/6/2017

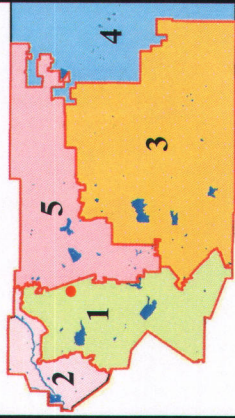

Tina Grande, Principal Management Analyst 4/25/2017


Gregory V. Priamos, Director County Counsel 4/6/2017

Vicinity Map






● Project Location



Supervisor Districts

LEGEND:

-  Storm Drain constructed by PP25954, per Agreement
-  Existing Storm Drain
-  Supervisorial District

DESCRIPTION:

Perris Valley MDP Lateral B-8, Stage 2 (PP25954)



Attachment 1

1 COOPERATIVE AGREEMENT
2 Perris Valley MDP Lateral B-8, Stage 2
3 Project No. 4-0-00457
4 Plot Plan No. 25954

COPY

5 The Riverside County Flood Control and Water Conservation District, a body
6 politic ("DISTRICT"), the County of Riverside, a political subdivision of the State of California
7 ("COUNTY"), and Knox Logistics V, LLC, a Delaware limited liability company
8 ("DEVELOPER"), hereby agree as follows:

9 RECITALS

10 A. DEVELOPER has submitted for approval Plot Plan No. 25954 located in an
11 unincorporated area of western Riverside County. As a condition of approval for Plot Plan No.
12 25954, DEVELOPER must construct certain flood control facilities identified in DISTRICT'S
13 Perris Valley Master Drainage Plan (MDP) in order to provide flood protection and drainage for
14 DEVELOPER'S planned development; and

15 B. The required flood control facilities and drainage improvements, as shown
16 on DISTRICT Drawing No. 4-1103, include construction of approximately 450 lineal feet of
17 underground storm drain system ("DISTRICT DRAINAGE FACILITY"), as shown in concept
18 in blue on Exhibit "A", attached hereto and made a part hereof. At its downstream terminus,
19 DISTRICT DRAINAGE FACILITY will connect to DISTRICT'S existing Perris Valley MDP B-
20 8, Stage 1 facility. At its upstream terminus, DISTRICT DRAINAGE FACILITY terminates with
21 a concrete bulkhead for future extension; and

22 C. Associated with the construction of DISTRICT DRAINAGE FACILITY is
23 the construction of certain catch basins, inlets, connector pipes, and a lateral storm drain that is
24 thirty-six inches (36") or less in diameter that are located within COUNTY held easements or
25 rights of way ("APPURTENANCES"); and

26 D. Together, DISTRICT DRAINAGE FACILITY and APPURTENANCES are
27 hereinafter called "PROJECT"; and

28 E. DEVELOPER and COUNTY desire DISTRICT to accept ownership and
responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITY.

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

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

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

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

H. COUNTY is willing to (i) review and approve DEVELOPER'S plans and specifications for PROJECT; (ii) inspect the construction of PROJECT; (iii) accept and hold faithful performance and payment bonds submitted by DEVELOPER for DISTRICT DRAINAGE FACILITY and APPURTENANCES; (iv) grant DISTRICT the right to inspect, operate and maintain DISTRICT DRAINAGE FACILITY within COUNTY rights of way; and (v) accept ownership and responsibility for the operation and maintenance of APPURTENANCES, provided PROJECT is constructed in accordance with plans and specifications approved by DISTRICT and COUNTY.

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

SECTION I

DEVELOPER shall:

1. Prepare PROJECT plans and specifications ("IMPROVEMENT PLANS"), in accordance with applicable DISTRICT and COUNTY standards, and submit to DISTRICT and COUNTY for their respective review and approval.

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

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

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

5. Secure, at its sole cost and expense, all necessary licenses, agreements, permits and rights of entry as may be needed for the construction, inspection, operation and maintenance of DISTRICT DRAINAGE FACILITY. DEVELOPER shall furnish DISTRICT, at the time of providing written notice to DISTRICT of the start of construction as set forth in Section

1 I.8., with sufficient evidence of DEVELOPER having secured such necessary licenses,
2 agreements, permits and rights of entry, as determined and approved by DISTRICT.

3 6. Prior to commencing construction, furnish DISTRICT with copies of all
4 permits, approvals or agreements required by any federal, state or local resource and/or regulatory
5 agency for the construction, operation and maintenance of DISTRICT DRAINAGE FACILITY.
6 Such documents include but are not limited to those issued by the U.S. Army Corps of Engineers,
7 California Regional Water Quality Control Board, California State Department of Fish and
8 Wildlife, State Water Resources Control Board, and Western Riverside County Regional
9 Conservation Authority ("REGULATORY PERMITS").

10 7. Provide COUNTY, at the time of providing written notice to DISTRICT of
11 the start of construction as set forth in Section I.8., with faithful performance and payment bonds
12 covering all improvements as conditioned, each in the amount of one hundred percent (100%) of
13 the estimated cost for construction of DISTRICT DRAINAGE FACILITY as determined by
14 DISTRICT and of the APPURTENANCES as determined by COUNTY. The surety, amount and
15 form of the bonds, shall be subject to approval of DISTRICT and COUNTY. The bonds shall
16 remain in full force and effect until PROJECT is accepted by DISTRICT and COUNTY as
17 complete; at which time the bond amount may be reduced to five percent (5%) for a period of one
18 (1) year to guarantee against any defective work, labor or materials.

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 construction
23 of PROJECT.

24 9. [INTENTIONALLY DELETED]

25 10. [INTENTIONALLY DELETED]

26 11. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
27 the start of construction as set forth in Section I.8., with a complete list of all contractors and
28

1 subcontractors to be performing work on DISTRICT DRAINAGE FACILITY, including the
2 corresponding license number and license classification of each. At such time, DEVELOPER
3 shall further identify in writing its designated superintendent for PROJECT construction.

4 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
5 the start of construction as set forth in Section I.8., a construction schedule which shall show the
6 order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out the
7 various parts of work, including estimated start and completion dates. As construction of
8 DISTRICT DRAINAGE FACILITY progresses, DEVELOPER shall update said construction
9 schedule as requested by DISTRICT.

10 13. Furnish DISTRICT with final mylar PROJECT plans and assign their
11 ownership to DISTRICT prior to the start on any portion of PROJECT construction.

12 14. Not permit any change to or modification of DISTRICT and COUNTY
13 approved IMPROVEMENT PLANS without the prior written permission and consent of
14 DISTRICT and COUNTY.

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

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

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

28

1 Without limiting or diminishing DEVELOPER'S obligation to indemnify or hold
2 DISTRICT and COUNTY harmless, DEVELOPER shall procure and maintain or cause to be
3 maintained, at its sole cost and expense, the following insurance coverages during the term of this
4 Agreement:

5 A. Workers' Compensation:

6 If DEVELOPER has employees as defined by the State of California,
7 DEVELOPER shall maintain statutory Workers' Compensation Insurance
8 (Coverage A) as prescribed by the laws of the State of California. Policy shall
9 include Employers' Liability (Coverage B) including Occupational Disease
10 with limits not less than \$1,000,000 per person per accident. Policy shall be
11 endorsed to waive subrogation in favor of DISTRICT and COUNTY.

12 B. Commercial General Liability:

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

25 C. Vehicle Liability:

26 If DEVELOPER'S vehicles or mobile equipment are used in the performance
27 of the obligations under this Agreement, then DEVELOPER shall maintain
28

1 liability insurance for all owned, non-owned or hired vehicles so used in an
2 amount not less than \$1,000,000 per occurrence combined single limit. If
3 such insurance contains a general aggregate limit, it shall apply separately to
4 this Agreement or be no less than two (2) times the occurrence limit. Policy
5 shall name DISTRICT and COUNTY, its agencies, districts, special districts,
6 and departments, their respective directors, officers, Board of Supervisors,
7 employees, elected or appointed officials, agents or representatives as
8 additional insureds.

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 occurrence
13 and \$4,000,000 annual aggregate. If DEVELOPER'S Professional Liability
14 Insurance is written on a claims made basis rather than an occurrence basis,
15 such insurance shall continue through the term of this Agreement and
16 DEVELOPER shall purchase at his sole expense either 1) an Extended
17 Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates
18 Coverage from a new insurer with a retroactive date back to the date of, or
19 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 E. General Insurance Provisions – All Lines:

- 24 i. Any insurance carrier providing insurance coverage hereunder shall be
25 admitted to the State of California and have an A.M. BEST rating of
26 not less than an A: VIII (A: 8) unless such requirements are waived, in
27 writing, by the County Risk Manager. If the County Risk Manager
28

1 waives a requirement for a particular insurer such waiver is only valid
2 for that specific insurer and only for one policy term.

3
4 ii. DEVELOPER must declare its insurance self-insured retention for each
5 coverage required herein. If any such self-insured retention exceeds
6 \$500,000 per occurrence each such retention shall have the prior written
7 consent of the County Risk Manager before the commencement of
8 operations under this Agreement. Upon notification of self-insured
9 retention deemed unacceptable to DISTRICT, and at the election of the
10 County Risk Manager, DEVELOPER'S carriers shall either: 1) reduce
11 or eliminate such self-insured retention with respect to this Agreement
12 with DISTRICT; or 2) procure a bond which guarantees payment of
13 losses and related investigations, claims administration, and defense
14 costs and expenses.

15 iii. DEVELOPER shall cause their insurance carrier(s) or its contractor's
16 insurance carrier(s), to furnish DISTRICT with 1) a properly executed
17 original certificate(s) of insurance and certified original copies of
18 endorsements effecting coverage as required herein; and 2) if requested
19 to do so orally or in writing by the County Risk Manager, provide
20 original certified copies of policies including all endorsements and all
21 attachments thereto, showing such insurance is in full force and effect.
22 Further, said certificate(s) and policies of insurance shall contain the
23 covenant of the insurance carrier(s) that a minimum of sixty (60) days
24 written notice shall be given to DISTRICT prior to any material
25 modification, cancellation, expiration or reduction in coverage of such
26 insurance. If DEVELOPER insurance carrier(s) policies does not meet
27 the minimum notice requirement found herein, DEVELOPER shall
28 cause DEVELOPER'S insurance carrier(s) to furnish a 60 day Notice of

1 Cancellation Endorsement. In the event of a material modification,
2 cancellation, expiration or reduction in coverage, this Agreement shall
3 terminate forthwith, unless DISTRICT receives, prior to such effective
4 date, another properly executed original certificate of insurance and
5 original copies of endorsements or certified original policies, including
6 all endorsements and attachments thereto, evidencing coverages set
7 forth herein and the insurance required herein is in full force and effect.
8 An individual authorized by the insurance carrier to do so on its behalf
9 shall sign the original endorsements for each policy and the certificate
10 of insurance.

- 11 iv. It is understood and agreed by the parties hereto that DEVELOPER'S
12 insurance shall be construed as primary insurance, and DISTRICT'S
13 insurance and/or deductibles and/or self-insured retentions or self-
14 insured programs shall not be construed as contributory.
- 15 v. If, during the term of this Agreement or any extension thereof, there is
16 a material change in the scope of services or there is a material change
17 in the equipment to be used in the performance of the scope of work
18 which will add additional exposures (such as the use of aircraft,
19 watercraft, cranes, etc.); or the term of this Agreement, including any
20 extensions thereof, exceeds five (5) years, DISTRICT reserves the right
21 to adjust the types of insurance required under this Agreement and the
22 monetary limits of liability for the insurance coverages currently
23 required herein, if, in the County Risk Manager's reasonable judgment,
24 the amount or type of insurance carried by DEVELOPER has become
25 inadequate.
- 26 vi. DEVELOPER shall pass down the insurance obligations contained
27 herein to all tiers of subcontractors working under this Agreement.
28

1 vii. The insurance requirements contained in this Agreement may be met
2 with a program(s) of self-insurance acceptable to DISTRICT.

3 viii. DEVELOPER agrees to notify DISTRICT of any claim by a third party
4 or any incident or event that may give rise to a claim arising from the
5 performance of this Agreement.

6 Failure to maintain the insurance required by this paragraph shall be deemed a
7 material breach of this Agreement and shall authorize and constitute authority for DISTRICT, at
8 its sole discretion, to provide written notice to DEVELOPER that DISTRICT is unable to perform
9 its obligations hereunder, nor to accept responsibility for ownership, operation and maintenance
10 of DISTRICT DRAINAGE FACILITY due, either in whole or in part, to said breach of this
11 Agreement.

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

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

19 20. Accept ownership and sole responsibility for the operation and maintenance
20 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
21 and maintenance of DISTRICT DRAINAGE FACILITY and COUNTY accepts ownership and
22 responsibility for operation and maintenance of APPURTENANCES.

23 21. Accept all liability whatsoever associated with the ownership, operation and
24 maintenance of DISTRICT DRAINAGE FACILITY until such time as DISTRICT DRAINAGE
25 FACILITY are formally accepted by DISTRICT for ownership, operation and maintenance.

26 22. Pay, if suit is brought upon this Cooperative Agreement or any bond
27 guaranteeing the completion of PROJECT, all costs and reasonable expenses and fees, including
28

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

4 3. Inspect PROJECT construction.

5 4. [INTENTIONALLY DELETED]

6 5. [INTENTIONALLY DELETED]

7 6. Grant DISTRICT, by execution of this Agreement, the right to construct,
8 inspect, operate and maintain DISTRICT DRAINAGE FACILITY within COUNTY rights of
9 way.

10 7. Accept ownership and sole responsibility for the operation and maintenance
11 of APPURTENANCES upon DISTRICT acceptance of DISTRICT DRAINAGE FACILITY for
12 ownership, operation and maintenance.

13 8. Not grant any occupancy permits for any units within any portion of Plot
14 Plan No. 25954, or any phase thereof, until PROJECT is deemed substantially complete.

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

21 SECTION IV

22 It is further mutually agreed:

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

27
28

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

5 3. DISTRICT acceptance of ownership and responsibility for the operation and
6 maintenance of DISTRICT DRAINAGE FACILITY shall be in a satisfactorily maintained
7 condition as solely determined by DISTRICT. If, subsequent to the inspection and, in the sole
8 discretion of DISTRICT, DISTRICT DRAINAGE FACILITY is not in an acceptable condition,
9 corrections shall be made at sole expense of DEVELOPER.

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

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

26 6. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed within
27 twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in Section I.8.;

28

1 however, DISTRICT'S construction inspection staff is limited and, therefore, the issuance of a
2 Notice to Proceed is subject to staff availability.

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

15 7. PROJECT construction work shall be on a five (5) day, forty (40) hour work
16 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 more
18 than the normal forty (40) hour work week or on holidays, DEVELOPER shall make a written
19 request for permission from DISTRICT to work the additional hours. The request shall be
20 submitted to DISTRICT at least seventy-two (72) hours prior to the requested additional work
21 hours and state the reasons for the overtime and the specific time frames required. The decision
22 of granting permission for overtime work shall be made by DISTRICT at its sole discretion and
23 shall be final. If permission is granted by DISTRICT, DEVELOPER will be charged the cost
24 incurred at the overtime rates for additional inspection time required in connection with the
25 overtime work in accordance with Ordinance Nos. 671 and 749, including any amendments
26 thereto, of the County of Riverside.

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

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

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

25 DEVELOPER'S indemnification obligations shall be satisfied when
 26 DEVELOPER has provided to DISTRICT and COUNTY the appropriate form of dismissal (or
 27
 28

1 similar document) relieving DISTRICT or COUNTY from any liability for the claim, proceeding
2 or action involved.

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

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

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

23 10. Any waiver by DISTRICT or by COUNTY of any breach of any one or more
24 of the terms of this Cooperative Agreement shall not be construed to be a waiver of any subsequent
25 or other breach of the same or of any other term hereof. Failure on the part of DISTRICT or
26 COUNTY to require exact, full and complete compliance with any terms of this Cooperative
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 RIVERSIDE COUNTY FLOOD CONTROL
7 AND WATER CONSERVATION DISTRICT
8 1995 Market Street
9 Riverside, CA 92501
10 Attn: Administrative Services Section

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

9 KNOX LOGISTICS V, LLC
10 3501 Jamboree Road, Suite 230
11 Newport Beach, CA 92660
12 Attn: Dave Drake

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

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

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

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

28

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

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

12 18. This Cooperative Agreement is intended by the parties hereto as a final
13 expression of their understanding with respect to the subject matter hereof and as a complete and
14 exclusive statement of the terms and conditions thereof and supersedes any and all prior and
15 contemporaneous agreements and understandings, oral or written, in connection therewith. This
16 Cooperative Agreement may be changed or modified only upon the written consent of the parties
17 hereto.

18
19 //

20
21 //

22
23
24
25
26
27
28

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

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

(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 *Leila Moshref-Danesh*
LEILA MOSHREF-DANESH
Deputy County Counsel

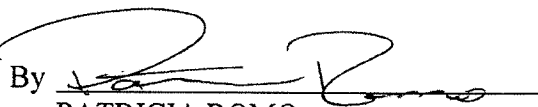
By _____
Deputy
(SEAL)

Cooperative Agreement:
Perris Valley MDP Lateral B-8, Stage 2
(Plot Plan No. 25954)
Project No. 4-0-00457
AMR:blm
02/21/17

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

RECOMMENDED FOR APPROVAL:

COUNTY OF RIVERSIDE

By 
PATRICIA ROMO
Director of Transportation

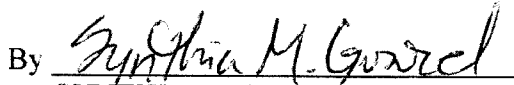
By _____
JOHN TAVAGILONE, Chairman
Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 
SYNTHIA M. GUNZEL
Supervising Deputy County Counsel

By _____
Deputy

(SEAL)

Cooperative Agreement:
Perris Valley MDP Lateral B-8, Stage 2
(Plot Plan No. 25954)
Project No. 4-0-00457
AMR:blm
02/22/17

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

KNOX LOGISTICS V, LLC
a Delaware limited liability company

By: Lion-TCC Development II, LLC
a Delaware limited liability company
its Managing Member

By: TC Industrial Associates, Inc.
a Delaware corporation
its Managing Member

By 

DAVID NAZARYK
Vice President

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

See attached certificate

Cooperative Agreement:
Perris Valley MDP Lateral B-8, Stage 2
(Plot Plan No. 25954)
Project No. 4-0-00457
AMR:blm
02/22/17

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.

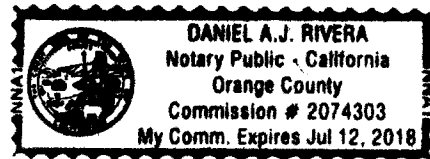
State of California
County of Orange)

On March 1, 2017 before me, Daniel A.J. Rivera, Notary Public
(insert name and title of the officer)

personally appeared David Nazaryk
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.

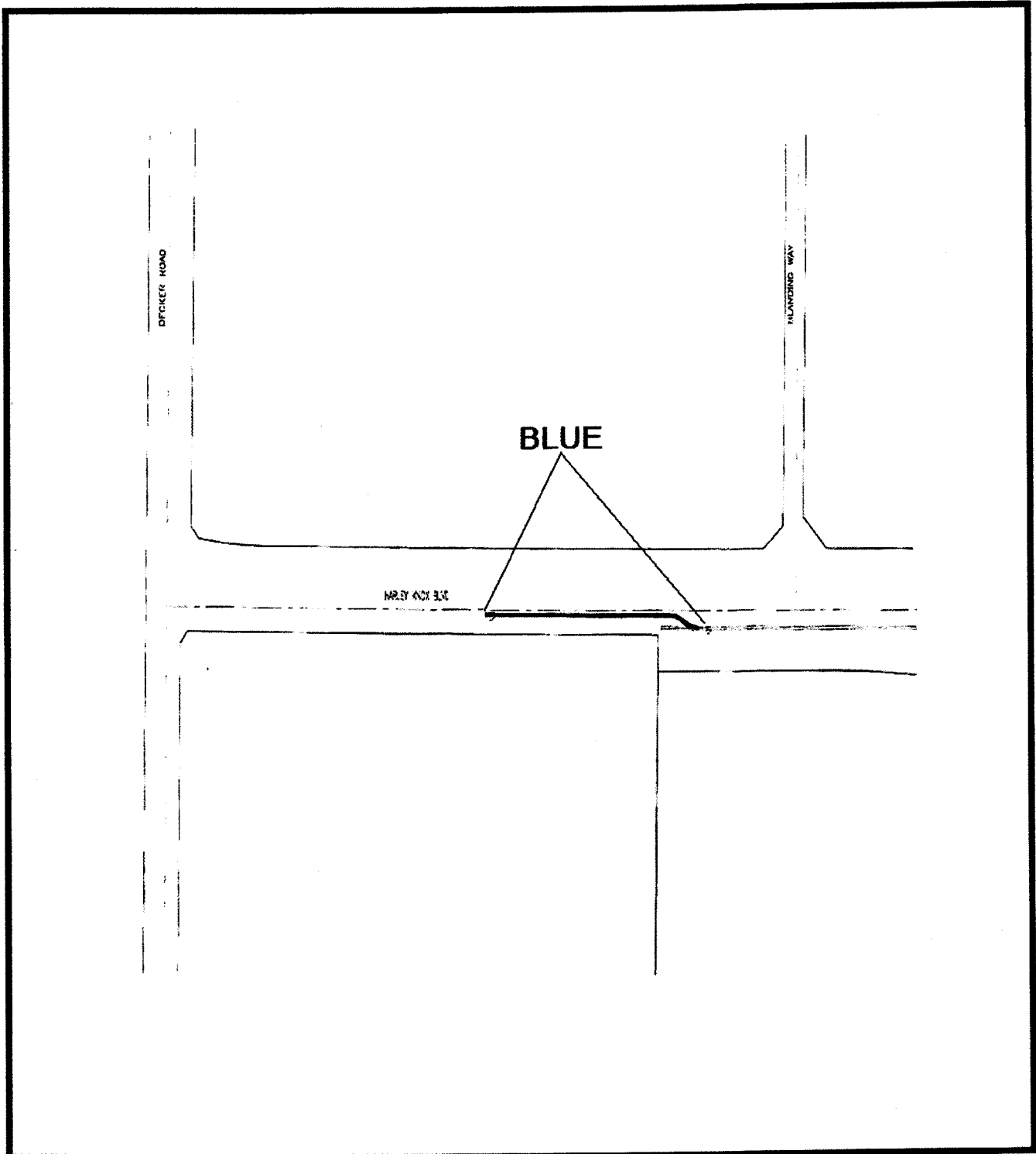
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature D. Rivera (Seal)

Exhibit A



COOPERATIVE AGREEMENT

Perris Valley MDP Lateral B-8, Stage 2

Plot Plan No. 25954

Project No. 4-0-00457

Page 1 of 1