

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



ITEM
11.4
(ID # 4825)

MEETING DATE:

Tuesday, July 25, 2017

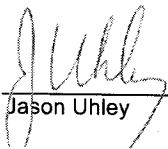
FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of Cooperative Agreement for University Area MDP Line 6, Stage 2, Public Works No. 16-0677 (Parcel Map No. 36638), Project No. 1-0-00127; 1st District; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Cooperative Agreement between the District, the City of Riverside (City) and Columbia Business Center, LLC (Developer); and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

ACTION:


Jason Uhley

7/12/2017

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley
Nays: None
Absent: None
Date: July 25, 2017
xc: Flood

Kecia Harper-Ihem
Clerk of the Board

By: 
Deputy

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT 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 DISTRICT COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS:			Budget Adjustment: No	
			For Fiscal Year: N/A	

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

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 Public Works No. 16-0677, are to be constructed by Developer and inspected, operated and maintained by the District, City and Developer.

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection and subsequent operation and maintenance of the referenced storm drain facilities.

Upon completion of construction, the District will assume ownership and responsibility for the operation and maintenance of the mainline storm drain system. The Developer will assume ownership and responsibility for the operation and maintenance of the project's associated catch basins, inlets, connector pipes and laterals that are 36 inches or less in diameter located within privately held rights of way.

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

Impact on Residents and Businesses

As noted above, construction of these drainage improvements is a requirement for the development of Public Works No. 16-0677. The principal beneficiaries are the future residents of the tract. Ancillary benefits will accrue to the public who will utilize the tract's roadways.

SUPPLEMENTAL:

Additional Fiscal Information

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs of the District maintained storm drain facilities will accrue to the District.

ATTACHMENTS:

1. Vicinity Map
2. Cooperative Agreement

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

AMR:blm
P8/213202



Gregory L. Priamos, Director County Counsel 7/12/2017

COOPERATIVE AGREEMENT

University Area MDP Line 6, Stage 2

Project No. 1-0-00127

Public Works No. 16-0677

(Parcel Map No. 36638)

The Riverside County Flood Control and Water Conservation District ("DISTRICT"), the City of Riverside ("CITY"), and Columbia Business Center, LLC, a California limited liability company ("DEVELOPER"), hereby agree as follows:

RECITALS

A. DEVELOPER is the legal owner of record of certain real property located within the County of Riverside. DEVELOPER has submitted for approval Public Works No. 16-0677 located in the city of Riverside. As a condition of approval, DEVELOPER must construct certain flood control facilities in order to provide flood protection and drainage for DEVELOPER'S planned development; and

B. The legal description of Public Works No. 16-0677 is provided in Exhibit "A" attached hereto and made a part hereof; and

C. The required flood control facilities, as shown on District Drawing No. 1-0728, includes (i) the removal of a portion of the existing underground storm drain system, (ii) the construction of approximately 1,578 lineal feet of underground storm drain system and (iii) the construction of approximately 4 lineal feet of 36-inch reinforced concrete pipe ("DISTRICT FACILITIES"), as shown in concept in blue on Exhibit "B" attached hereto and made a part hereof. At its upstream terminus, DISTRICT FACILITIES terminates with a concrete bulkhead for future extension. At its downstream terminus, DISTRICT FACILITIES will connect to the University Area MDP Line 6, Stage 1 facility ("STORM DRAIN"). STORM DRAIN has not been accepted by DISTRICT for ownership, operation and maintenance; and

D. Associated with the construction of DISTRICT FACILITIES is the construction of certain catch basins, inlets, curbs and gutters, connector pipes and various lateral

1 storm drains that are thirty-six inches (36") or less in diameter located within DEVELOPER-held
2 easements or rights of way ("DEVELOPER FACILITIES"). DEVELOPER FACILITIES are to
3 be initially owned and maintained by DEVELOPER, and subsequently owned and maintained by
4 the Private Property Owners for Public Works No.16-0677; and

5
6 E. Together, DISTRICT FACILITIES and DEVELOPER FACILITIES are
7 hereinafter called "PROJECT"; and

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

12
13 G. DISTRICT is willing to (i) review and approve DEVELOPER'S plans and
14 specifications for DISTRICT FACILITIES, (ii) inspect the construction of DISTRICT
15 FACILITIES and (iii) accept ownership and responsibility for the operation and maintenance of
16 DISTRICT FACILITIES, provided that DEVELOPER (i) complies with this Agreement, (ii)
17 constructs PROJECT in accordance with DISTRICT and CITY approved plans and specifications,
18 (iii) obtains and conveys to DISTRICT the necessary rights of way for the inspection, operation
19 and maintenance of DISTRICT FACILITIES and (iv) accepts ownership and responsibility for
20 the operation and maintenance of PROJECT following completion of PROJECT construction
21 until such time as DISTRICT accepts ownership and responsibility for the operation and
22 maintenance of DISTRICT FACILITIES and STORM DRAIN; and

23
24 H. CITY is willing to (i) review and approve PROJECT plans and
25 specifications, (ii) inspect the construction of PROJECT, (iii) accept and hold faithful
26 performance and payment bonds submitted by DEVELOPER for DISTRICT FACILITIES, (iv)
27 grant DISTRICT the right to inspect, operate and maintain DISTRICT FACILITIES located
28 within CITY rights of way and (v) consent to the recordation and conveyance of the Irrevocable

1 Offer(s) of Dedication furnished by DEVELOPER, provided PROJECT is constructed in
2 accordance with plans and specifications approved by DISTRICT and CITY.

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

4 SECTION I

5 DEVELOPER shall:

6
7 1. Prepare PROJECT plans and specifications ("IMPROVEMENT PLANS"),
8 including separate plans and specifications for DISTRICT FACILITIES, in accordance with
9 applicable DISTRICT and CITY standards, and submit to DISTRICT and CITY for their
10 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 review and approval of right of way and conveyance documents, and with the processing and
15 administration of this Agreement.

16
17 3. Deposit with DISTRICT (Attention: Business Office - Accounts
18 Receivable), at the time of providing written notice to DISTRICT of the start of PROJECT
19 construction as set forth in Section I.8. herein, the estimated cost of providing construction
20 inspection for DISTRICT FACILITIES, in an amount as determined and approved by DISTRICT
21 in accordance with Ordinance Nos. 671 and 749 of the County of Riverside, including any
22 amendments thereto, based upon the bonded value of DISTRICT FACILITIES .

23
24 4. Secure, at its sole cost and expense, all necessary licenses, agreements,
25 permits, approvals, rights of way, rights of entry and temporary construction easements as may
26 be needed for the construction, inspection, operation and maintenance of PROJECT.
27 DEVELOPER shall furnish DISTRICT, at the time of providing written notice to DISTRICT of
28 the start of construction as set forth in Section I.8., or not less than twenty (20) days prior to

1 recordation of the final map for Public Works No. 16-0677 or any phase thereof, whichever occurs
2 first, with sufficient evidence of DEVELOPER having secured such necessary licenses,
3 agreements, permits, approvals, rights of way, rights of entry and temporary construction
4 easements as determined and approved by DISTRICT and CITY.

5
6 5. Prior to commencing construction, furnish DISTRICT and CITY with copies
7 of all permits, approvals or agreements required by any federal, state or local resource and/or
8 regulatory agency for the construction, operation and maintenance of PROJECT. Such documents
9 include but are not limited to those issued by the U.S. Army Corps of Engineers, California
10 Regional Water Quality Control Board, California State Department of Fish and Wildlife, State
11 Water Resources Control Board and Western Riverside County Regional Conservation Authority
12 ("REGULATORY PERMITS").
13

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

17 7. Provide CITY, at the time of providing written notice to DISTRICT of the
18 start of construction as set forth in Section I.8., or not less than twenty (20) days prior to
19 recordation of the final map for Public Works No. 16-0677 or any phase thereof, whichever occurs
20 first, with faithful performance and payment bonds, each in the amount of one hundred percent
21 (100%) of the estimated cost for construction of DISTRICT FACILITIES as determined by
22 DISTRICT. The surety, amount and form of the bonds shall be subject to the approval of
23 DISTRICT and CITY. The bonds shall remain in full force and effect until DISTRICT
24 FACILITIES are accepted by DISTRICT and CITY as complete; at which time the bond amount
25 may be reduced to five percent (5%) for a period of one year to guarantee against any defective
26 work, labor or materials.
27
28

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

6
7 9. Obtain and provide DISTRICT (Attention: Right of Way Acquisition
8 Section), at the time of providing written notice to DISTRICT of the start of construction as set
9 forth in Section I.8., or not less than twenty (20) days prior to the recordation of the final map for
10 Public Works No. 16-0677 or any phase thereof, whichever occurs first, with duly executed
11 Irrevocable Offer(s) of Dedication to the public for flood control and drainage purposes, including
12 ingress and egress, for the rights of way deemed necessary by DISTRICT for the construction,
13 inspection, operation and maintenance of DISTRICT FACILITIES. The Irrevocable Offer(s) of
14 Dedication shall be in a form approved by DISTRICT and shall be executed by all legal and
15 equitable owners of the property described in the offer(s).

16
17 10. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of Dedication
18 as set forth in Section I.9., with Preliminary Reports on Title dated not more than thirty (30) days
19 prior to date of submission of all the property described in the Irrevocable Offer(s) of Dedication.

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

26
27 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
28 the start of construction as set forth in Section I.8., with a construction schedule which shall show
the order and dates in which DEVELOPER or DEVELOPER'S contractor proposes to carry out

1 the various parts of work, including estimated start and completion dates. As construction of
2 PROJECT progress, DEVELOPER shall update said construction schedule as requested by
3 DISTRICT.

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

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

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

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

19 17. DEVELOPER shall not commence operations until DISTRICT has been
20 furnished with original certificate(s) of insurance and original certified copies of endorsements
21 and, if requested, certified original policies of insurance including all endorsements and any and
22 all other attachments as required in this Section. Without limiting or diminishing DEVELOPER'S
23 obligation to indemnify or hold DISTRICT harmless, DEVELOPER shall procure and maintain
24 or cause to be maintained, at its sole cost and expense, the following insurance coverage's during
25 the term of this Agreement:

1 A. Workers' Compensation:

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

10 B. Commercial General Liability:

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

25 C. Vehicle Liability:

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

1 DEVELOPER shall maintain liability insurance for all owned, non-
2 owned or hired vehicles so used in an amount not less than \$1,000,000
3 per occurrence combined single limit. If such insurance contains a
4 general aggregate limit, it shall apply separately to this Agreement or be
5 no less than two (2) times the occurrence limit. Policy shall name
6 DISTRICT, County of Riverside and CITY, its agencies, districts,
7 special districts, and departments, their respective directors, officers,
8 Board of Supervisors, employees, elected or appointed officials, agents
9 or representatives as additional insureds.
10

11 D. Professional Liability:

12 DEVELOPER shall cause any architect or engineer retained by
13 DEVELOPER in connection with the performance of DEVELOPER's
14 obligations under this Agreement to maintain Professional Liability
15 Insurance providing coverage for the performance of their work, with a
16 limit of liability of not less than \$2,000,000 per occurrence and
17 \$4,000,000 annual aggregate. DEVELOPER shall require that, if such
18 Professional Liability Insurance is written on a claims-made basis rather
19 than an occurrence basis, such insurance shall continue through the term
20 of this Agreement and that such architect or engineer shall purchase at
21 such architect or engineer's sole expense either 1) an Extended
22 Reporting Endorsement (also known as Tail Coverage); or 2) Prior
23 Dates Coverage from a new insurer with a retroactive date back to the
24 date of, or prior to, the inception of this Agreement; or 3) demonstrate
25 through Certificates of Insurance that such architect or engineer has
26 maintained continuous coverage with the same or original
27
28

insurer. Coverage provided under items 1), 2) or 3) shall continue for the term specified in the insurance policy, which shall be reasonably acceptable to DISTRICT and CITY.

E. General Insurance Provisions – All Lines:

- i. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.
- ii. DEVELOPER must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention deemed unacceptable to DISTRICT, and at the election of the County Risk Manager, DEVELOPER'S carriers shall either 1) reduce or eliminate such self-insured retention with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- iii. DEVELOPER shall cause their insurance carrier(s) or its contractor's insurance carrier(s), to furnish DISTRICT with 1) a properly executed original certificate(s) of insurance and certified original

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

1 insurance and/or deductibles and/or self-insured retentions or self-
2 insured programs shall not be construed as contributory.

- 3 v. If, during the term of this Agreement or any extension thereof, there
4 is a material change in the scope of services or there is a material
5 change in the equipment to be used in the performance of the scope
6 of work which will add additional exposures (such as the use of
7 aircraft, watercraft, cranes, etc.); or the term of this Agreement,
8 including any extensions thereof, exceeds five (5) years, DISTRICT
9 reserves the right to adjust the types of insurance required under this
10 Agreement and the monetary limits of liability for the insurance
11 coverages currently required herein if, in the County Risk Manager's
12 reasonable judgment, the amount or type of insurance carried by
13 DEVELOPER has become inadequate.
14
15 vi. DEVELOPER shall pass down the insurance obligations contained
16 herein to all tiers of subcontractors working under this Agreement.
17
18 vii. The insurance requirements contained in this Agreement may be met
19 with a program(s) of self-insurance acceptable to DISTRICT.
20
21 viii. DEVELOPER agrees to notify DISTRICT of any claim by a third
22 party or any incident or event that may give rise to a claim arising
23 from the performance of this Agreement.

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

1 18. Construct or cause to be constructed PROJECT at DEVELOPER'S sole cost
2 and expense in accordance with DISTRICT and CITY approved IMPROVEMENT PLANS.

3 19. Within two (2) weeks of completing PROJECT construction, provide
4 DISTRICT (Attention: Contract Administration Section) and CITY with written notice that
5 PROJECT construction is substantially complete and request that DISTRICT conduct a final
6 inspection of DISTRICT FACILITIES and CITY conduct a final inspection of PROJECT.
7

8 20. Upon completion of PROJECT construction, and upon acceptance by CITY
9 of all street rights of way deemed necessary by DISTRICT and CITY for the operation and
10 maintenance of DISTRICT FACILITIES, but prior to DISTRICT acceptance of DISTRICT
11 FACILITIES for ownership, operation and maintenance, convey or cause to be conveyed to
12 DISTRICT the flood control easement(s), including ingress and egress, for the rights of way
13 deemed necessary by DISTRICT for the operation and maintenance of DISTRICT FACILITIES,
14 in a form approved by DISTRICT, for the rights of way as shown in concept cross-hatched in
15 black on Exhibit "C".
16

17 21. At the time of recordation of the conveyance document(s) as set forth in
18 Section I.20., furnish DISTRICT with policies of title insurance, each in the amount of not less
19 than (i) fifty percent (50%) of the estimated fee value, as determined by DISTRICT, for each
20 easement parcel to be conveyed to DISTRICT, or (ii) one hundred percent (100%) of the estimated
21 value, as determined by DISTRICT, for each fee parcel to be conveyed to DISTRICT,
22 guaranteeing DISTRICT'S interest in said property as being free and clear of all liens,
23 encumbrances, assessments, easements, taxes and leases (recorded or unrecorded), and except
24 those which, in the sole discretion of DISTRICT, are acceptable.
25

26 22. Accept ownership and sole responsibility for the operation and maintenance
27 of PROJECT until such time as DISTRICT accepts ownership and responsibility for the operation
28 and maintenance of DISTRICT FACILITIES and STORM DRAIN, and the Private Property

1 Owner(s) accepts ownership and responsibility for the operation and maintenance of
2 DEVELOPER FACILITIES.

3 23. Accept all liability whatsoever associated with the ownership, operation and
4 maintenance of PROJECT until such time as DISTRICT FACILITIES and STORM DRAIN are
5 formally accepted by DISTRICT for ownership, operation and maintenance.
6

7 24. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
8 completion of PROJECT, all costs and reasonable expenses and fees, including reasonable
9 attorneys' fees, and acknowledge that, upon entry of judgment, all such costs, expenses and fees
10 shall be computed as costs and included in any judgment rendered.

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

21 26. Ensure that all work performed pursuant to this Agreement by
22 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
23 regulations, including but not limited to all applicable provisions of the Labor Code, Business
24 and Professions Code and Water Code. DEVELOPER shall be solely responsible for all costs
25 associated with compliance with applicable laws and regulations.
26

27 SECTION II

28 DISTRICT shall:

1. Review and approve IMPROVEMENT PLANS prior to the start of

1 PROJECT construction.

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

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

7 4. Record or cause to be recorded the Irrevocable Offer(s) of Dedication
8 provided by DEVELOPER pursuant to Section I.9.

9 5. Inspect DISTRICT FACILITIES construction.

10 6. Keep an accurate accounting of all DISTRICT costs associated with the
11 review and approval of IMPROVEMENT PLANS, the review and approval of right of way and
12 conveyance documents, and the processing and administration of this Cooperative Agreement.
13

14 7. Keep an accurate accounting of all DISTRICT construction inspection costs,
15 and within forty-five (45) days after DISTRICT acceptance of DISTRICT FACILITIES as being
16 complete, submit a final cost statement to DEVELOPER. If the deposit, as set forth in Section
17 I.3., exceeds such costs, DISTRICT shall reimburse DEVELOPER the excess amount within sixty
18 (60) days after DISTRICT acceptance of DISTRICT FACILITIES as being complete. If at any
19 time the costs exceed the deposit or are anticipated by DISTRICT to exceed the deposit,
20 DEVELOPER shall pay such additional amount(s), as deemed reasonably necessary by
21 DISTRICT to complete inspection of DISTRICT FACILITIES, within thirty (30) days after
22 receipt of billing from DISTRICT.

23 8. Accept ownership and sole responsibility for the operation and maintenance
24 of DISTRICT FACILITIES upon (i) DISTRICT inspection of DISTRICT FACILITIES in
25 accordance with Section I.19., (ii) DISTRICT acceptance of PROJECT construction as being
26 complete, (iii) DISTRICT receipt of stamped and signed "record drawings" of PROJECT plans,
27
28

as set forth in Section I.25., (iv) recordation of all conveyance documents described in Section I.21., (v) DISTRICT'S sole determination that DISTRICT FACILITIES are in a satisfactorily maintained condition and (vi) DISTRICT acceptance of ownership and responsibility for the operation and maintenance of STORM DRAIN.

9. Provide CITY with a reproducible duplicate copy of "record drawings"

PROJECT plans upon DISTRICT acceptance of DISTRICT FACILITIES as being complete.

SECTION III

CITY shall:

1. Review and approve IMPROVEMENT PLANS prior to the start of PROJECT construction.

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

3. Inspect PROJECT construction.

4. Consent, by execution of this Cooperative Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Cooperative Agreement.

5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein, and any other outstanding offers of dedication necessary for the construction, inspection, operation and maintenance of DISTRICT FACILITIES, and convey sufficient rights of way to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain DISTRICT FACILITIES.

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

7. Upon DISTRICT acceptance of DISTRICT FACILITIES construction as

1 being complete, accept sole responsibility for the adjustment of all PROJECT manhole rings and
2 covers located within CITY rights of way which must be performed at such time(s) that the
3 finished grade along and above the underground portions of DISTRICT FACILITIES are
4 improved, repaired, replaced or changed. It being further understood and agreed that any such
5 adjustments shall be performed at no cost to DISTRICT.
6

7 SECTION IV

8 It is further mutually agreed:

9 1. All work involved with PROJECT shall be inspected by DISTRICT and
10 CITY but shall not be deemed complete until DISTRICT and CITY mutually agree in writing that
11 construction is completed in accordance with DISTRICT and CITY approved IMPROVEMENT
12 PLANS.
13

14 2. CITY and DEVELOPER personnel may observe and inspect all work being
15 done on DISTRICT FACILITIES but shall provide any comments to DISTRICT personnel who
16 shall be solely responsible for all quality control communications with DEVELOPER'S
17 contractor(s) during the construction of PROJECT.
18

19 3. DISTRICT acceptance of ownership and responsibility for the operation and
20 maintenance of DISTRICT FACILITIES shall be in a satisfactorily maintained condition as solely
21 determined by DISTRICT. If, subsequent to the inspection and in the sole discretion of
22 DISTRICT, DISTRICT FACILITIES are not in an acceptable condition, corrections shall be
23 made at sole expense of DEVELOPER.
24

25 4. DEVELOPER shall complete construction of PROJECT within twelve (12)
26 consecutive months after execution of this Agreement and within one hundred twenty (120)
27 consecutive calendar days after commencing work on PROJECT. It is expressly understood that
28 since time is of the essence in this Agreement, failure of DEVELOPER to perform the work within
the agreed upon time shall constitute authority for DISTRICT to perform the remaining work and

1 require DEVELOPER'S surety to pay to CITY the penal sum of any and all bonds. In which case,
2 CITY shall subsequently reimburse DISTRICT for DISTRICT costs incurred.

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

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

21 In the event DEVELOPER wishes to expedite issuance of a Notice to
22 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at
23 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation
24 of the individual's credentials and experience to DISTRICT for review and, if appropriate,
25 approval. DISTRICT shall review the individual's qualifications and experience and, upon
26 approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be authorized
27 to act on DISTRICT'S behalf on all DISTRICT FACILITIES construction and quality control
28 matters. If DEVELOPER'S initial construction inspection deposit furnished pursuant to Section

1 I.3. exceeds ten thousand dollars (\$10,000), DISTRICT shall refund to DEVELOPER up to eighty
2 percent (80%) of DEVELOPER'S initial inspection deposit within forty-five (45) days of
3 DISTRICT'S approval of DEPUTY INSPECTOR; however, a minimum balance of ten thousand
4 dollars (\$10,000) shall be retained on account.

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

19
20 8. DEVELOPER for itself, its successors and assigns hereby releases
21 DISTRICT, County of Riverside and CITY (including their agencies, districts, special districts
22 and departments, their respective directors, officer, Board of Supervisors, elected and appointed
23 officials, employees, agents and representatives) from any and all claims, demands, actions or
24 suits of any kind arising out of any liability, known or unknown, present or future, including but
25 not limited to any claim or liability, based or asserted, pursuant to Article I, Section 19 of the
26 California Constitution, the Fifth Amendment of the United States Constitution or any other law
27 or ordinance which seeks to impose any other liability or damage, whatsoever, for damage caused
28 by the discharge of drainage within or from PROJECT. Nothing contained herein shall constitute

1 a release by DEVELOPER of DISTRICT, its officers, agents and employees from any and all
2 claims, demands, actions or suits of any kind arising out of any liability, known or unknown,
3 present or future, for the negligent maintenance of DISTRICT FACILITIES after the acceptance
4 of ownership, operation and maintenance of DISTRICT FACILITIES by DISTRICT.

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

18
19 DEVELOPER shall defend, at its sole expense, including all costs and fees
20 (including but not limited to attorney fees, cost of investigation, defense and settlements or
21 awards), DISTRICT, County of Riverside and CITY (including their respective agencies,
22 districts, special districts and departments, their respective directors, officers, Board of
23 Supervisors, elected and appointed officials, employees, agents and representatives) in any claim,
24 proceeding or action for which indemnification is required.

25
26 With respect to any of DEVELOPER'S indemnification requirements,
27 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall
28 have the right to adjust, settle or compromise any such claim, proceeding or action without the

1 prior consent of DISTRICT, County of Riverside and CITY; provided, however, that any such
2 adjustment, settlement or compromise in no manner whatsoever limits or circumscribes
3 DEVELOPER'S indemnification obligations to DISTRICT, County of Riverside or CITY.

4 DEVELOPER'S indemnification obligations shall be satisfied when
5 DEVELOPER has provided to DISTRICT, County of Riverside and CITY the appropriate form
6 of dismissal (or similar document) relieving DISTRICT, County of Riverside or CITY from any
7 liability for the claim, proceeding or action involved.
8

9 The specified insurance limits required in this Agreement shall in no way
10 limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT,
11 County of Riverside and CITY from third party claims.
12

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

17 10. Any waiver by DISTRICT or by CITY of any breach of any one or more of
18 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

24 11. Any and all notices sent or required to be sent to the parties of this Agreement
25 will be mailed by first class mail, postage prepaid, to the following addresses:
26
27
28

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

CITY OF RIVERSIDE
3900 Main Street, 4th Floor
Riverside, CA 92522
Attn: Jeff Hart

4 COLUMBIA BUSINESS CENTER, LLC
5 1200 Sixth Avenue, Suite 700
Seattle, WA 98101
6 Attn: Peter Bury

7
8 12. This Agreement is to be construed in accordance with the laws of the State
9 of California. If any provision of this Agreement is held by a court of competent jurisdiction to
10 be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force
11 without being impaired or invalidated in any way.

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

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

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

24
25 16. DEVELOPER shall not assign or otherwise transfer any of its rights, duties
26 or obligations hereunder to any person or entity without the written consent of the other parties
27 hereto being first obtained. In the event of any such transfer or assignment, DEVELOPER
28 expressly understands and agrees that it shall remain liable with respect to any and all of the

1 obligations and duties contained in this Agreement.

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

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

14 //

15 //

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

2 **JUL 25 2017**

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

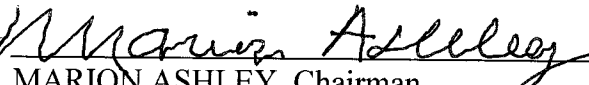
4
5 RECOMMENDED FOR APPROVAL:

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

6
7 By


JASON E. UHLEY
General Manager-Chief Engineer

By


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

8
9
10 APPROVED AS TO FORM:

ATTEST:

11 GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

12
13
14 By


LEILA MOSHREF-DANESH
Deputy County Counsel

By


Deputy

(SEAL)

15
16
17
18
19
20
21
22
23
24
25 Cooperative Agreement w/City of Riverside and Columbia Business Center, LLC:
26 University Area MDP Line 6, Stage 2
27 Project No. 1-0-00127
28 Public Works No. 16-0677 (Parcel Map No. 36638)
06/01/17
AMR:blm

CITY OF RIVERSIDE

By

City Manager

Alexander Nguyen
Assistant City Manager

APPROVED AS TO FORM:

ATTEST:

By

Deputy City Attorney

By

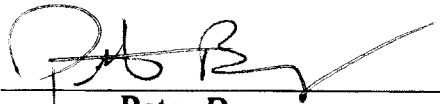
COLLEEN J. NICOL
City Clerk

(SEAL)

Cooperative Agreement w/ City of Riverside and Columbia Business Center, LLC:
University Area MDP Line 6, Stage 2
Project No. 1-0-00127
Public Works No. 16-0677 (Parcel Map No. 36638)
06/01/17
AMR:blm

COLUMBIA BUSINESS CENTER, LLC
a California limited liability company

By: Washington Capital Management, Inc.
a Washington corporation
its Non-Member Manager

By 
Peter Bury
Vice President
Authorized Signatory

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

Cooperative Agreement w/ City of Riverside and Columbia Business Center, LLC:
University Area MDP Line 6, Stage 2
Project No. 1-0-00127
Public Works No. 16-0677 (Parcel Map No. 36638)
06/01/17
AMR:blm

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Peter Bury is the person who appeared before me and that he is the Vice President for Washington Capital Management, Inc., with the authority to execute this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 6/16/2017.



Nancy L. Maxwell
(Signature of Notary Public)
Nancy L. Maxwell

(Printed Name of Notary Public)

My Appointment expires: MARCH 31, 2020

Exhibit A

LEGAL DESCRIPTION

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

TENTATIVE PARCEL MAP NO. 36638, BEING A DIVISION OF THE FOLLOWING:

PARCEL A:

THAT PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 2 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING NORTH AND BELOW THE FLOW OF THE OLD EAST RIVERSIDE IRRIGATION DISTRICT CANAL.

TOGETHER WITH THAT PORTION OF SAID MICHIGAN AVENUE LYING WITHIN THE CITY LIMITS OF THE CITY OF RIVERSIDE AND SOUTHERLY OF A LINE PARALLEL AND 44 FEET SOUTHERLY AS MEASURED AT RIGHT ANGLES, FROM THE CENTER LINE OF COLUMBIA AVENUE AND ITS WESTERLY EXTENSION AS SHOWN ON SAID MAP OF THE EAST RIVERSIDE LAND COMPANY, AS SHOWN BY RESOLUTION NO. 19535 AND RECORDED NOVEMBER 02, 2001 AS INSTRUMENT NO. 544636.

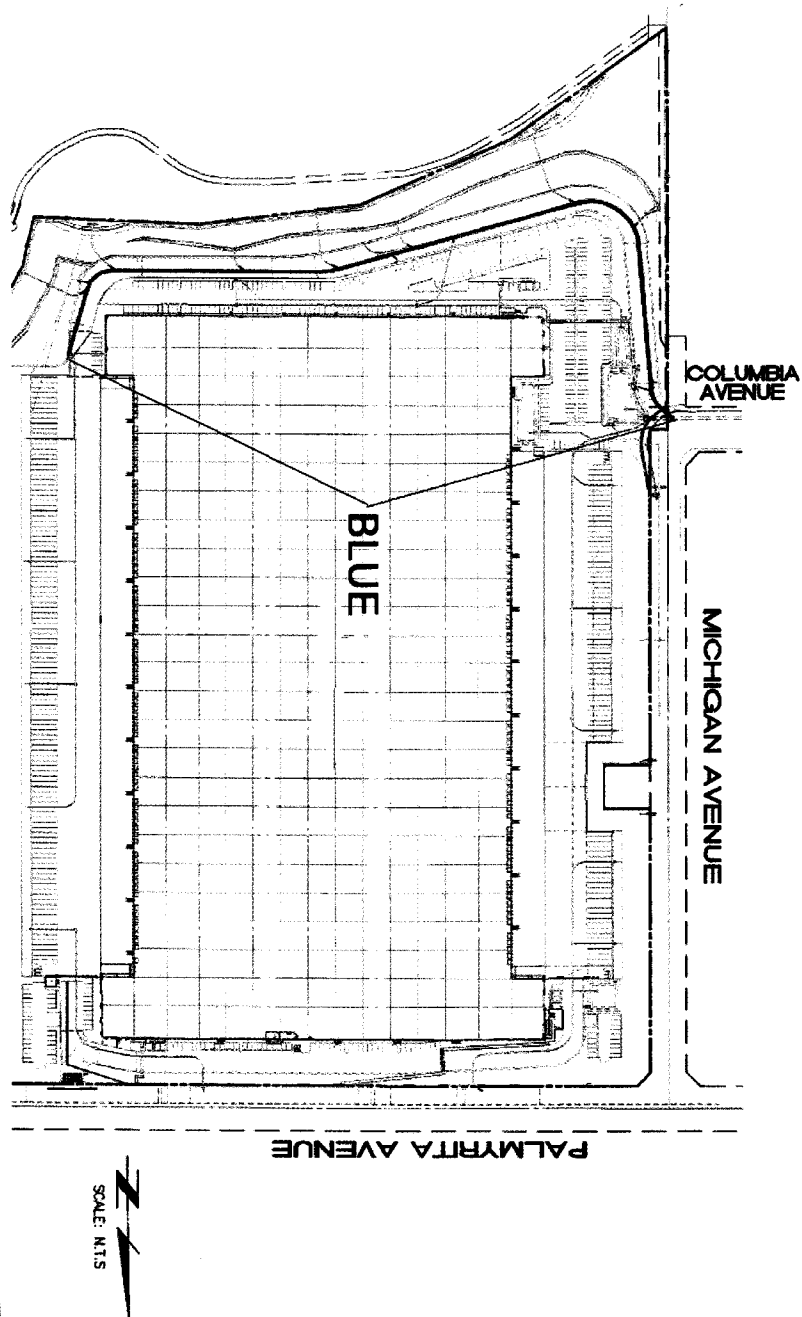
PARCEL B:

PARCELS 5 THROUGH 12, ALL INCLUSIVE, AND LETTERED LOT "D" OF PARCEL MAP 30485, IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILED IN BOOK 218, PAGES 45 THROUGH 47, INCLUSIVE, OF PARCEL MAPS, AND BY CERTIFICATE OF CORRECTION RECORDED FEBRUARY 1, 2012 AS INSTRUMENT NO. 2012-0046249 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PCL A: 257-040-015-4

PCL B: 257-040-018-7, 257-040-019-8, 257-040-020-8, 257-040-021-9, 257-040-022-0, 257-050-021-0, 257-050-022-1, 257-050-023-2

Exhibit B



COOPERATIVE AGREEMENT

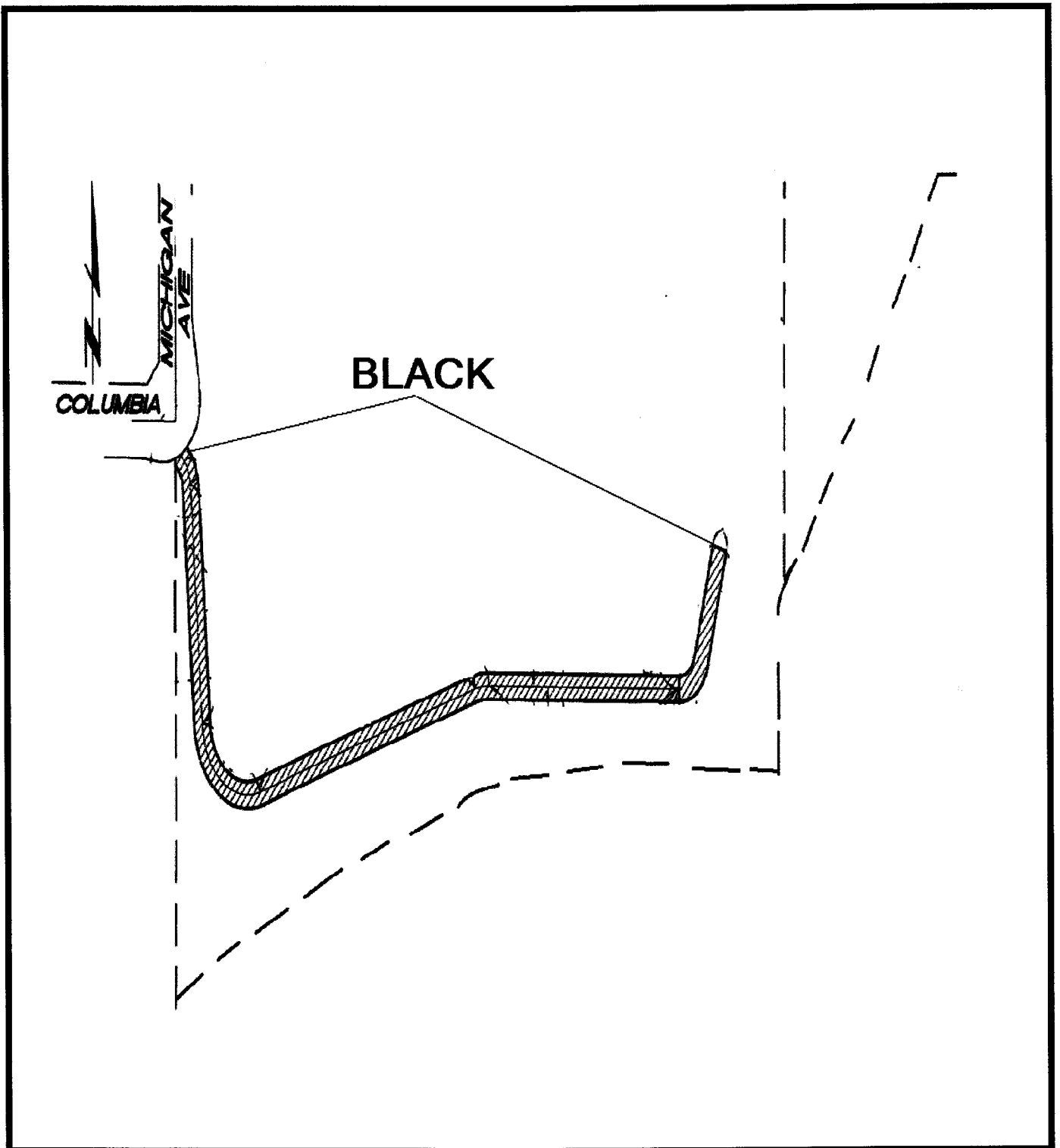
University Area MDP Line 6, Stage 2

Public Works No. 16-0677 (Parcel Map No. 36638)

Project No. 1-0-00127

Page 1 of 1

Exhibit C



COOPERATIVE AGREEMENT

University Area MDP Line 6, Stage 2

Public Works No. 16-0677 (Parcel Map No. 36638)

Project No. 1-0-00127

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